

NATIONAL FOREST MANAGEMENT ACT OF 1976

SEPTEMBER 8, 1976.—Ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,
submitted the following

REPORT

together with

DISSENTING AND ADDITIONAL VIEWS

(Including cost estimate of the Congressional Budget Office)

[To accompany H.R. 15069]

The Committee on Agriculture, to whom was referred the bill (H.R. 15069) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following:

That this Act may be cited as the "National Forest Management Act of 1976".

REPORT ON FIBER POTENTIAL

SEC. 2. Section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof a new subsection (c) as follows:

"(c) (1) The Secretary shall report in the 1979 and subsequent assessments on the additional fiber potential in the National Forest System. The report shall include, but not be restricted to, forest mortality, growth salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations.

"(2) In developing the report, the Secretary shall provide opportunity for public input, and shall consult with other interested governmental departments and agencies."

REFORESTATION

SEC. 3. Section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d) (1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to Congress annually at the time of submission of the President's budget together with the annual report provided for under section 7(c) of this Act, beginning with submission of the President's budget for fiscal year 1978, the amount and location by forests and States and by productivity class where practicable of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

"(2) The Secretary shall annually for eight years following the enactment of this subsection, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year plus a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary's estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President's budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 7(c) of this Act at the time of submission of the President's budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

"(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System \$200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended and shall not be subject to rescission.

"(e) The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides in the National Forests, including the beneficial or adverse effects of such uses."

RENEWABLE RESOURCE PROGRAM

SEC. 4. Section 3(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by striking "satisfy" and inserting in lieu thereof "implement and monitor".

SEC. 5. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is further amended by striking out the word "and" at the end of paragraph (3); striking out the period at the end of paragraph (4) and inserting

in lieu thereof a semicolon and the word "and"; and by adding the following new paragraph:

"(5) program recommendations which—

"(A) evaluate objectives for the major Forest Service programs in order that multiple use and sustained yield relationships among and within the renewable resources can be determined;

"(B) recognize the fundamental need to protect and where appropriate improve the quality of soil, water, and air resources;

"(C) state national goals that recognize the interrelationships between and interdependence within the renewable resources; and

"(D) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices."

NATIONAL FOREST SYSTEM RESOURCE PLANNING

SEC. 6. Section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding the following subsections:

"(c) The Secretary shall begin to incorporate the standards contained in this section into plans for units of the National Forest System as soon as practicable after enactment of this amendment and shall complete such incorporation for all such units by no later than September 30, 1985. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this Act, the management of such unit may continue under existing land and resource management plans.

"(d) Upon preparation, such plans shall be available for public scrutiny at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and thereafter hold public meetings or comparable processes of public involvement for consideration of such plans in locations that foster public participation in the review of such plans.

"(e) In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—

"(1) provide for multiple uses and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960, and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness;

"(2) determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (e) (1), the definition of the terms 'multiple use' and 'sustained yield' as provided in the Multiple-Use Sustained-Yield Act of 1960, and the availability of lands and their suitability for resource management.

"(f) Plans developed in accordance with this section shall—

"(1) form one integrated plan for each unit of the National Forest System, incorporating in one document all of the features required by this section and any other applicable provisions of law;

"(2) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

"(3) be prepared by a multidisciplinary team. Each team shall prepare its plan based on actual knowledge of the forest and upon inventories of all the resources of the forest;

"(4) permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, tree improvement, and the like if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

"(5) permit the application of silvicultural systems only if—

"(i) such systems are determined to be appropriate to accomplish the multiple-use sustained yield resources management objectives of subsection (e) (1),

"(ii) such systems are carried out in a manner consistent with the adequate protection of soil, watershed, continuously flowing waterways

and bodies of water, fish, wildlife, recreation, and esthetic resources, and with the regeneration of the timber resources,

"(iii) there is assurance that tree regeneration can occur either by natural or artificial means within a reasonable period after harvest, but in no event longer than five years,

"(iv) the size of areas to be clearcut is kept to the minimum needed to accomplish silvicultural and multiple use sustained yield resource management objectives of subsection (e) (1),

"(v) the areas to be clearcut are shaped and blended with the natural terrain to the extent practicable especially where there are esthetic considerations, and

"(vi) such system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber;

"(6) be amended after final adoption only in accordance with the provisions of subsections (e) and (f) and after being open to public scrutiny and public involvement comparable to that required by subsection (d); and

"(7) be revised (i) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (ii) in accordance with the provisions of subsections (e) and (f) and the public scrutiny and public involvement provisions of subsection (d).

"(g) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

"(h) The length and the other terms of any contract for the sale of timber shall be designed to promote orderly harvesting consistent with the principles set out in this section. Unless there is a finding by the Secretary that better utilization of the various forest resources, consistent with the provision of the Multiple-Use Sustained-Yield Act of 1960, will result from a contract of longer duration, no contract for the sale of timber shall extend for a period of more than ten years: *Provided*, That such ten-year period may be adjusted at the discretion of the Secretary to provide additional time because of circumstances beyond the control of the purchaser. The contract shall require the purchaser to file, as soon as practicable after the execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be made a part of the contract, subject to concurrence by the Secretary, and which shall be subject to amendment to meet changing conditions. The Secretary shall not extend any contract period with an original duration of two years or more unless he finds that the purchaser has diligently performed, or made every reasonable effort to perform, in accordance with the plan of operation concurred in by the Secretary and that extension would be in the public interest.

"(i) Within the multiple use objectives of a land management plan adopted pursuant to this section, the Secretary shall, insofar as practicable, take steps to preserve the diversity of tree species similar to that which is existing at the time of harvest in the region controlled by the unit plan.

"(j) The Secretary shall establish—

"(1) standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): *Provided*, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: *Provided further*, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack;

"(2) exceptions to these standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including but not limited to recreation, wildlife, habitat,

and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section; and

"(3) utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of title 16, United States Code: *And Provided further*, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

"(k) The Secretary shall make a report to Congress, together with the 1979 updating of the Assessment as required by section 2 of this Act, on the milling and other wood fiber product fabrication facilities and their location in the United States. The report shall note the public and private forested areas that supply such facilities. The report shall assess the degree of utilization into product form of harvested trees by such facilities and shall set forth the technology appropriate to the facilities to improve utilization either individually or in aggregate units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

"(l) The Secretary shall—

"(1) formulate and implement, as soon as practicable, a process for estimating long-term costs and benefits to support the program evaluation requirements of this Act. This process shall include requirements to provide information on all estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

"(2) include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 7(c) of this Act, including an identification of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process."

Sec. 7. Section 7 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended—

(a) by striking the period at the end of subsection (a) and inserting in lieu thereof the following: "*Provided*, That, commencing in fiscal year 1981, notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out renewable resource programs of the Forest Service after September 30, 1980, except as specifically authorized by law enacted after the date of this provision, and except as otherwise provided in section 2(d) (3) of this Act."; and

(b) by adding a new sentence at the end of subsection (c) as follows: "With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management."

TRANSPORTATION SYSTEM

SEC. 8. Section 9 of the Forest and Rangeland Renewable Resources Act of 1974 is amended by inserting "(a)" immediately before the words "The Congress" and inserting at the end thereof new subsection (b) as follows:

"(b) Unless the necessity for permanent roads is set forth in the forest development road system plan, roads constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as part of the forest development road system."

NATIONAL FOREST SYSTEM

SEC. 9. Section 10(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any Act supplementary to and amendatory thereof, shall be returned to the public domain except by an Act of Congress."

SEC. 10. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof a new section 12 as follows:

"SEC. 12. ACQUISITION OF NATIONAL FOREST SYSTEM LANDS.—(a) The National Forest Reservation Commission, established by the Act of March 1, 1911 (36 Stat. 961, as amended; 16 U.S.C. 513-516, 518), is abolished and all functions of the Commission are transferred to the Secretary of Agriculture.

"(b) For the purposes of providing information that will aid Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary is hereby authorized and directed to make an annual report of all land purchases and exchanges relating to the National Forest System, and report the findings to Congress as part of the report prepared in compliance with section 7(c) of this Act. The report shall include an evaluation of the purchase price criteria and guidelines utilized by the Secretary for the purpose of forest land acquisition."

SEC. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 and 14 as follows:

"SEC. 13. REGULATIONS.—The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

"SEC. 14. SEVERABILITY.—If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby."

ORGANIC ACT AMENDMENT

SEC. 12. The twelfth undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), is hereby amended by deleting the same and inserting in lieu thereof the following paragraphs:

"For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 581h, 1601-1610), the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands. The Secretary shall advertise all sales, unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than \$10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement. The Secretary shall take such action as he may deem appropriate

to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands, including but not limited to:

- (1) establishing adequate monitoring systems to promptly identify patterns of noncompetitive bidding;
- (2) requiring sealed bidding to be predominately utilized for advertised sales of one million board feet or less; and
- (3) requiring that a report of instances of such collusive practices or patterns of noncompetitive bidding be submitted to the Department of Justice with any and all supporting data.

Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary, and such persons shall have no personal interest in the purchase or harvest of such products nor be directly or indirectly in the employment of the purchaser thereof.

"The Secretary, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or forest products for research and demonstration projects.

"Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this amendment shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale."

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

SEC. 13. The sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260, as amended, 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963, as amended, 16 U.S.C. 500), are amended by adding at the end thereof the following new sentence: "In the administration of the foregoing provisions of this paragraph, the term 'moneys received' against which the percentage authorized by such provisions is applied for determining the amount payable to any State for public schools and public roads shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sale contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget review estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes."

BRIEF EXPLANATION OF THE LEGISLATION

A. H.R. 15069 would amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) to—

1. Require the Secretary of Agriculture to include in the 1979 and subsequent Assessments mandated by the RPA a report on the additional fiber potential of the National Forest System and provide for public input and consultation with other agencies in development of report.

2. Establish a program by which lands within the National Forest System currently in need of reforestation and timber stand improvement will be treated within eight years; direct the Secretary to treat and maintain planned timber production on Forest Service lands after this eight-year period has elapsed so as to prevent a backlog of needed work; authorize \$200 million for reforestation efforts beginning in October 1977 (FY 1978); and provide that funds appropriated in accordance with these provisions shall be available until expended and shall not be subject to rescission.

3. Set forth additional requirements to be included in the program recommendations as mandated by the RPA including a direction to

the Secretary that the program contain recommendations which evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices.

4. Add new requirements for National Forest Service timber management planning under the RPA as follows:

Require the Secretary to incorporate standards set forth in this section into plans for units of Forest System as soon as practicable after enactment but in no event later than September 30, 1985. Provide that management of units may continue under existing plans pending incorporation of these standards.

Set forth provisions for public participation in the land management planning process for units of the National Forest System.

Emphasize that the land management planning process be consistent with provisions of the Multiple-Use Sustained-Yield Act.

Set forth seven requirements of land management plans:

(1) that it form one integrated plan for each Forest System unit, incorporating in one document all aspects of the plan;

(2) that it be embodied in written material and contain certain information including the planner timber sale program and proportion of probable methods of timber harvest within the unit;

(3) that it be prepared by a multidisciplinary team based on actual knowledge of the forest;

(4) that it permit increases in harvest levels based on intensified management practices and that it provide for a decrease in harvest levels if such practices cannot be successfully implemented;

(5) that it permit the application of silvicultural practices only under certain conditions and guidelines (Church Subcommittee Guidelines)—i.e., only if they accomplish multiple use-sustained yield management objectives, systems are carried out so as to protect forest resources, there is assurance tree regeneration can recur within a five-year period, clearcut area is kept to a minimum needed to accomplish multiple use-sustained yield resource management objectives, clearcut area is properly shaped and blended, and the system is not selected primarily for greatest dollar return.

(6) that it be amended only in accordance with the same requirements as apply to adoption of plans;

(7) that it be revised only when conditions change but at least every 15 years in accordance with the requirements that apply to adoption of plans.

5. Require that plans, permits, contracts and other instruments be consistent with land management plans and that such instruments presently in effect be revised as soon as practicable after enactment, with such revision subject to valid existing rights.

6. Limit timber sale contracts to 10 years, subject to extension for circumstances beyond purchaser's control, and require that timber purchasers for a contract of two or more years shall file a plan of operation with the concurrence of the Secretary with such plan of operation to become a part of the contract.

7. Establish that, insofar as practicable, the Secretary shall take steps to preserve the diversity of tree species similar to that which existed at the time of the harvest.

8. Direct the Secretary to establish standards to provide that stands of timber be harvested at maturity (i.e., culmination of mean annual increment of growth), with exceptions to provide for sound silvicultural practices such as thinning or other stand improvements or for harvesting of timber in imminent danger from insect or disease.

9. Require the establishment of utilization standards, methods of measurement, and harvesting practices to provide for optimum use of the wood material and provide for deposits by purchasers of salvage timber to facilitate preparation of the timber sale. Such deposits would not be considered as moneys received from the National Forests for purposes of calculating payments to counties.

10. Require that, unless there is established a need for a permanent road, all roads shall be designed so as to return vegetative cover within ten years of the termination of the contract, permit, or lease either through artificial or natural means.

11. Provide that National Forest lands shall not be returned to the public domain except by Act of Congress.

12. Abolish the National Forest Reservation Commission and transfer its functions to the Secretary of Agriculture.

13. Require the Secretary to submit to Congress with the 1979 Assessment a report on the location of wood fiber product fabrication facilities in the United States and of the public and private forested areas from which they draw timber, on the degree of utilization of harvested trees by such facilities, and suggested improvements in technology to reduce waste of wood fibers.

14. Direct the Secretary to formulate and implement a process for estimating long-term costs and benefits to support the program evaluation requirements of the RPA, including a comparison of expenditures associated with the timber management program with the return to the Government resulting from sale of timber. Further, the Secretary must include a summary of the findings resulting from these estimates in the annual report required by section 7(c) of the RPA, including identification of those advertised timber sales made for prices below estimated expenditures.

15. Require the Secretary of Agriculture to submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides in the National Forests, including the beneficial and adverse effects of such uses, and also a description of the status of major research programs, significant findings and how these findings will be applied in National Forest System management.

16. Require that funds for all presently authorized renewable resources programs of the Forest Service must be reauthorized by Act of Congress in order for such programs to be continued commencing with fiscal year 1981, except for the reforestation authorization contained in the bill, and except for authorizations which may be enacted subsequent to enactment of this bill.

B. The twelfth unnumbered paragraph of the 1897 Organic Act is deleted and new language added providing authority for the Secretary to sell timber located on National Forest lands, without reference to

requirements that resulted in Monongahela decision. Amended provisions, among other things, would—

1. Require advertising of sales unless extraordinary conditions exist or appraised value is less than \$10,000;

2. Require action to obviate collusive practices in the bidding for timber or forest products from National Forest System lands and to establish adequate monitoring systems to promptly identify patterns of non-competitive bidding;

3. Require sealed bidding to be predominately utilized for advertised sales of one million board feet or less; and

4. Validate timber sale contracts made prior to enactment of this Act if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale.

C. The Act of May 23, 1908, and the Act of March 1, 1911, are amended to provide that the payments to the States for distribution to the counties for schools and roads shall be based on 25 percent of the gross amount received in payment for the timber including purchaser credits allowed for construction of roads. Thus, the States would receive 25 percent of the gross purchase price rather than 25 percent of the actual cash inflow to the Federal Treasury. The Secretary must also make available to the States his projections of anticipated distributions to the States under the Act of May 23, 1908, and of anticipated payments in lieu of taxes.

PURPOSE AND NEED FOR LEGISLATION

H.R. 15069 is a comprehensive statute which sets forth Congressional policy for management of the National Forests in the light of the needs and concerns of present day America. It provides a broad framework within which the Forest Service can develop improved management of the National Forests. It establishes authority for the Forest Service to engage in more intensified reforestation and timber stand improvement practices. It builds upon the direction provided in the Multiple-Use Sustained-Yield Act and the Forest and Rangeland Renewable Resources Planning Act. It is a balanced bill which takes account of the concerns for protection of the environment and the needs of the American people for a continuous supply of timber.

The National Forests of the United States are an important national asset. They include 8 percent of the national land area, have a value estimated at \$42 billion and in recent years have produced cash revenues of \$400 million to \$500 million annually. Their output and use affect everyone in the United States, directly or indirectly. The National Forests include 18 percent of the commercial forest land of the country but now include slightly more than half of the standing softwood timber, and a smaller proportion of the hardwood timber. The National Forests are managed by the Forest Service in the Department of Agriculture on multiple use principles, with due regard for outputs of timber, outdoor recreation, wildlife, and water.

The National Forests are located largely in the West because they were established by the reservation of public domain for permanent public ownership. In 1891 when such reservations began, most of the suitable public domain was in the West. The Weeks Act of March 1, 1911, provided the authority to acquire lands and led to the establish-

ment of most of the Eastern National Forests. The Weeks Act directed the Secretary to identify for purchase "such forested, cutover or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber." Under this legislation, considerable acreage was purchased from private landowners, primarily in the South, the Northern Lake States, and the East.

Half of the National Forests are classed as commercial forests; the rest is above timberline, is covered with shrubs and grasses, or has forests too sparse to be considered "commercial". The commercial stands of the National Forests are primarily softwood species and most of the timber grown is old growth, or "virgin". Such stands typically show little net growth annually and cannot be made to grow much more wood until the old stand has been harvested and replaced by new, more economical, faster-growing stands. Some of the most difficult problems of forest management involve this conversion of old growth to younger stands.

Authority for the management of the National Forests originated with the Act of June 4, 1897 (familiarily known as the Organic Administration Act of 1897). The purposes of the National Forests as stated in that Act are "to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flow, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States". These purposes have been shaped and refined by a number of other Acts over the years.

The Multiple-Use Sustained-Yield Act of 1960 established a policy that the National Forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. It directed the Secretary "to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom."

In 1964, Congress enacted the Forest and Rangeland Renewable Resources Planning Act (RPA). In this Act, it reaffirmed the importance of managing the renewable resources contained within the approximately 187 million acres in the National Forest System in a manner consistent with the principles set forth in the Multiple-Use Sustained-Yield Act of 1960 so as to meet the present and anticipated future demands on these resources by the American people. The Act provided for development of long-range plans for the renewable resource programs administered by the Forest Service and for a Statement of Policy reviewable by the Congress. (The policy statement sets guidelines within which the annual budgets are to be developed over the next five years.) The Act also established requirements for the Secretary to develop land and resource management plans for units of the National Forest using a systematic interdisciplinary approach.

Interest in legislation which would provide modernized standards for management of the National Forest has been provoked by a spate of litigation concerning timber sales by the Forest Service which permit the use of clearcutting techniques.

On August 21, 1975, the Fourth Circuit Court of Appeals affirmed a decision of the Federal District Court for West Virginia pertaining

to three planned timber sales on the Monongahela National Forest. The decision, based on a strict interpretation of the Act of June 4, 1897, allows sale of only dead, physiologically mature, or large trees which have been individually marked and which will be completely removed. *Izaak Walton League of America v. Butz*, 522 F.2d. 1945 (4th Cir. 1975). The need for a major revision of the forest management legislation is brought sharply into focus by the Court of Appeals decision in the Monongahela case in which it stated:

We are not insensitive to the fact that our reading of the Organic Act will have serious and far-reaching consequences, and it may well be that this legislation enacted over seventy-five years ago is an anachronism which no longer serves the public interest. However, the appropriate forum to resolve this complex and controversial issue is not the courts but the Congress.

This case was followed by a series of other cases instituted elsewhere in the country which could shortly have the effect of making the Monongahela decision nationwide in application. (The litigation is described in greater detail in the next section of this report.) Based on the constraints on the type of trees that can be harvested under the courts' interpretation, the Department of Agriculture estimates that the volume of timber which can be harvested from the predominantly immature eastern National Forests in the next few decades will be only 10 percent of current harvest levels. In the mature forests of the West, the Department estimates that harvest levels will be reduced to about 50 percent of current harvest levels.

These estimates of reduced timber harvest are based on the application of the courts' interpretation to new sales and do not assume a requirement to revise sales presently under contract. If present contracts had to be revised, it would almost completely stop harvesting from the National Forest System until contracts were revised or new sales developed.

A reduction in the amount of timber products offered to consumers would quickly result in increased prices. A number of studies and historical experience indicate that market prices of the major timber products are quite responsive to changes in quantities supplied to the market. The Department of Agriculture's preliminary estimate indicates that a 50-percent reduction in available Forest Service softwood timber would result in more than a 15-percent increase in wholesale lumber prices and a larger increase in wholesale plywood prices for the period 1980-90. The immediate impact on lumber and plywood prices could even exceed the above projections. The impact of a shortage in supply would be particularly critical if it occurred at a time when the housing market was expanding.

In addition to these national impacts, a major reduction in the supply of softwood sawtimber from the National Forests would have a severe impact on certain local economies. Many areas in the West are dependent on the National Forests for a major part of their supply of raw material. A loss or major reduction in supply would likely force certain mills out of business with accompanying impacts on employment and community stability. Although National Forests

supply less than 5 percent of the total hardwood sawtimber, a loss or major reduction in supply would also have a severe impact on local dependent industries and the related communities.

The Monongahela decision resulted in the introduction of a number of measures in the House, some with sharply differing approaches. Some bills were in the nature of prescriptive legislation with sharp curtailment on activities of the Forest Service, other bills set out standards for management of timber resources providing greater flexibility to the Forest Service. A few would merely have repealed provisions of the Organic Act to which the courts addressed themselves in the litigation, while a few others would have provided short-term stop-gap relief.

The Subcommittee on Forests was in markup sessions for a total of nine days during which it considered a comparative print of these bills. This procedure insured a full and complete consideration of all points of view. The legislation which emerged from the Subcommittee and Committee markup of an additional three days borrows from a number of these measures as well as from other proposals.

H.R. 15069 is responsive to the problems resulting from the recent court decisions but also provides guidelines to the Forest Service in timber management activities that take account of the varying interests of the American people and its economy. In the view of the Committee, it is imperative that the Forest Service of the U.S. Department of Agriculture have the authority to apply modern management practices, techniques, and technology to the lands within its jurisdiction. This is especially true with reference to the management of the timber resource because of its interrelationship with the other uses and resources of the forest. Any alteration of the timber resource has significant effects on the other uses of the land, including but not limited to the quality of watershed protection, recreation use, wildlife habitat, and range management.

One of the most important provisions of the bill is the new thrust it would provide for reforestation and timber stand improvement of the National Forests. It provides an annual authorization of \$200 million with a view that the backlog of land in need of reforestation and timber stand improvement would be treated within an eight-year period and thereafter forest lands would be treated on a current basis. It is expected that with full implementation of this authority, the Forest Service will be able to provide increased yields from the National Forests as needed to keep pace with demand for timber products and at the same time enable this resource to be replenished and renewed through the years. Further, the Committee feels that this provision will provide indirect returns to the Federal Government and to the American people through improved watershed protection, greater opportunities for outdoor recreation, and enhanced wildlife and fish habitat.

H.R. 15069 also addresses itself to the issue of the payment to the States from receipts from the sales of timber. Under laws enacted early in this century, 25 percent of the "moneys received" from National Forest timber sales are turned back to the states for distribution to eligible counties. These funds, which are intended to compensate the counties for lost tax revenues, are specifically earmarked for the benefit of public roads and public schools.

Since 1964, the Forest Service has had the authority to require the successful bidders on timber contracts to construct the roads needed to carry out the harvesting operations. In return, the purchaser receives a credit equal to the road construction costs, which is then deducted from the sale price of the timber. The result of this method of constructing logging roads is to reduce the "moneys received" by the Forest Service, and hence to reduce the payments to counties.

Up until the early 1970's, approximately half of the roadbuilding activity on the National Forests was financed by purchaser credits, while the other half was financed by direct appropriations. Within recent years, however, up to 95% of road construction costs has been borne by purchaser credits, with devastating results on the level of payments to counties. For example, it is estimated that, in the prior fiscal year, purchaser credits account for \$210 million in a Forest Service road-building budget of \$221.9 million. This heavy reliance on purchaser-credit roads deprives the National Forest counties of \$52.5 million in timber-sales payments.

H.R. 15069 corrects this inequitable situation by defining the term "moneys received" to include all credits allowed timber purchasers for permanent road construction. In addition, the collections under the Knudson-Vandenberg Act, which gave the Forest Service the authority to require deposits from timber purchasers for reforestation harvested areas, are also defined as "moneys received" by this section. The amendment will neither directly affect the construction of purchaser-credit roads nor the collection of K-V funds; it will simply ensure that counties do not suffer financially as a result of these actions.

Not only does this revision correct an inequitable situation, but it will also go a long way towards the improvement of the highly strained relations which now often exist between local counties and the Forest Service.

This year is the 100th birthday of Federal forestry in the United States! Franklin B. Hough was appointed the first forestry agent in the United States Department of Agriculture on August 30, 1876, marking the start of Federal forestry in this country. He later became Chief of USDA's Division of Forestry, the forerunner of today's Forest Service. Without the initiation of Federal forestry 100 years ago, America would not be the prosperous and bountiful land that it is today.

In the view of the Committee, H.R. 15069 provides the basis for effective and imaginative Federal forestry management as we enter the next centennial.

SUMMARY OF COURT LITIGATION

In three recent cases, Federal courts have enjoined the U.S. Forest Service from negotiating or completing timber sales involving the use of clearcutting. In November 1973, the United States District Court for the Northern District of West Virginia, in a case styled *West Virginia Div. of the Izaak Walton League, Inc. v. Butz*, 367 F. Supp. 422, enjoined the Forest Service from entering into three proposed timber sales in the Monongahela National Forest in West Virginia. The District Court held that the proposed use of clearcutting in such sales violated the twelfth unnumbered paragraph of the Organic Act of 1897,

16 U.S.C. 476, because trees would be cut which were not dead, matured, or of large growth and which were not individually marked. The twelfth unnumbered paragraph of the Organic Act, which the Forest Service has regarded as its sole timber sale authority, provides in pertinent part, that:

"For the purpose of preserving the living and growing timber and promoting the younger growth on national forests, the Secretary of Agriculture, under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the *dead, matured, or large growth of trees* found upon such national forests as may be compatible with the utilization of the forests thereon, and may sell the same for not less than the appraised value. . . . *Such timber before being sold, shall be marked and designated*, and shall be cut and removed. . . ." (Emphasis supplied.)

The Government appealed; but the decision of the District Court was affirmed on August 21, 1975, by a unanimous three-judge panel of the U.S. Court of Appeals for the Fourth Circuit. *West Virginia Div. of Izaak Walton League of Am., Inc. v. Butz*, 522 F.2d 945. The Department of Justice elected not to seek further review by the U.S. Supreme Court.

In a second case, *Zieske v. Butz*, 406 F. Supp. 258, which was decided in December, 1975, the U.S. District Court for the District of Alaska adopted the rationale underlying the decision of the Fourth Circuit in the *Monongahela* case and enjoined the clearcutting of timber on a small portion of a 50-year timber sale already in progress in the Tongass National Forest in Alaska. Unlike the *Monongahela* decision which enjoined only proposed sales, in *Zieske* the District Court enjoined harvesting of timber which had already been sold. The Committee understands that the Department of Justice has decided to appeal that decision to the United States Court of Appeals for the Ninth Circuit.

The third and most recent case in which the *Monongahela* ruling has been applied is that of *Texas Committee on Natural Resources v. Butz*, Civil Action No. TY-76-268-CA. In this case, the U.S. District Court for the Eastern District of Texas, on July 23, 1976, held that clearcutting as practiced by the Forest Service in the Sam Houston, Angelina, Sabine, and Davy Crockett National Forests violates not only the Organic Act but also the Multiple-Use Sustained-Yield Act and the National Environmental Policy Act. Accordingly, the District Court issued from the bench a preliminary injunction enjoining certain proposed timber sales as well as further harvesting under numerous on-going timber sales in those Forests. The Committee understands that it is unlikely that the Government will appeal the preliminary injunction and that trial in this case has been set for December 6, 1976.

The three cases outlined above are the only cases thus far in which the Forest Service has actually been enjoined from entering into or completing timber sales. However, six additional cases have been brought against the Forest Service which raise the Organic Act issue.

In the wake of the August, 1975, decision by the U.S. Court of Appeals in the *Monongahela* case, the Forest Service has conducted in the four States which comprise the Fourth Circuit (West Virginia,

Virginia, North Carolina and South Carolina) only such limited timber sale activity as complies with the decision of the Court of Appeals. The Southern Appalachian Multiple Use Council, Inc., an industry group headquartered in North Carolina, has brought three suits challenging the decision of the Forest Service to follow the *Monongahela* decision in the Fourth Circuit. This group contends that the decision is wrong and should not be followed at all, or if it must be followed, that it should be followed uniformly throughout the United States. They first brought suit in the United States District Court for the Western District of North Carolina. *Southern Appalachian Multiple Use Council, Inc. v. Butz*, Civil No. A-75-173. On December 29, 1975, that Court denied their request that the Court direct the Forest Service either not to apply the *Monongahela* decision in the Fourth Circuit or, in the alternative, to apply it nationwide. They appealed that decision to the U.S. Court of Appeals for the Fourth Circuit which has heard argument but as yet issued no decision.

The Southern Appalachian Multiple Use Council, Inc., has also filed two additional suits against Secretary of Agriculture Earl L. Butz, one in the Fifth Circuit (*Southern Appalachian Multiple Use Council, Inc. v. Butz*, C76-702-A, U.S. District Court for the Northern District of Georgia) and one in the Sixth Circuit (*Southern Appalachian Multiple Use Council, Inc. v. Butz*, C.A. No. 2-76-63, U.S. District Court for the Eastern District of Tennessee). They seek in these suits to enjoin the Forest Service from concluding two specific timber sales, one in the Chattahoochee National Forest in Georgia and one in the Cherokee National Forest in Tennessee, on the ground that each proposed sale calls for the use of clearcutting which, under the *Monongahela* rationale, would violate the Organic Act. The Georgia case was filed in April, 1976, and a decision is expected shortly. The Tennessee case was filed in May, 1976, and is not as far along. We understand that the Forest Service has agreed, pending decision by the respective District Courts, not to award a contract for either sale.

Three other cases merit mention in connection with this issue. The first is the case of *M. W. Umphlett and Sons, Inc. v. Butz* (C.A. No. 76-1304) filed on July 20, 1976, in the United States District Court for the District of South Carolina, in which the District Court has been requested to enjoin the Forest Service from following the *Monongahela* decision in the Francis Marion National Forest in South Carolina or elsewhere in the Fourth Circuit. The State of South Carolina is, of course, a part of the Fourth Circuit and, as noted above, this issue is already pending before the Fourth Circuit on appeal of the North Carolina case brought by the Southern Appalachian Multiple Use Council, Inc.

In *Kodiak Aleutian Chapter, Alaska Conservation Society v. Butz* (Civil No. A-75-73), the United States District Court for the District of Alaska has been asked to halt an on-going 15-year timber sale in the Chugach National Forest in Alaska on the ground that it involves the use of clearcutting and, therefore, violates the Organic Act. The suit was filed on June 9, 1976, but there have been no further significant developments.

Finally, there is the case of *Miller v. Mallery* (Civil No. 73-609), which is pending before the United States District Court for the District of Oregon. The Forest Service has been attacked for permitting recreational use and timber harvest upon the Bull Run Reserve in

the Mt. Hood National Forest in Oregon. The plaintiffs have raised the *Monongahela* issue in an amended complaint. However, the Court has indicated its intention to decide the case against the Forest Service in the near future on the basis of another federal statute which is entirely unrelated to the clearcutting controversy. Therefore, the *Monongahela* issue will not be reached in the near term, if at all.

SECTION-BY-SECTION ANALYSIS

Reference should be made to the Subcommittee and Committee Markup Section of this report for additional comments on provisions of H.R. 15069.

Section 1. This section provides that, if enacted, this bill (H.R. 15069) may be cited as the "National Forest Management Act of 1976".

REPORT ON FIBER POTENTIAL

Section 2. This section amends section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974, 88 Stat. 476; 16 U.S.C. 1601-1610 (hereinafter referred to as the RPA), by adding thereto a new subsection (c) which requires that the Secretary include in the 1979 and subsequent decennial updatings of the renewable resource Assessment required by RPA section 2(a) a report on the additional fiber potential in the National Forest System. The Secretary must consult with other interested governmental departments and agencies in preparing the report and provide opportunity for public input. Among the things which must be covered in the report are forest mortality, growth salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations.

REFORESTATION

Section 3. This section further amends section 2 of the RPA by adding thereto a new subsection (d), which is a comprehensive reforestation provision, and a new subsection (e), which requires reports of herbicides and pesticides used in the National Forests.

Paragraph (1) of new subsection (d) establishes as the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Beginning with the President's budget submission for fiscal year 1978, the Secretary of Agriculture is directed to submit annually to the Congress with the President's budget a report of the amount and location by forests and States, and by productivity class where practicable, of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise deforested and all lands with stands of trees that are not growing at their best potential rate of growth. Such lands must then be given the level and types of treatment which secure the most effective mix of multiple use benefits. The Secretary must examine all treated National Forest lands after the first and third growing seasons and certify in the annual report that, as determined by stocking rate,

growth rate in relation to potential, and other pertinent measures, the results of treatment of such lands are satisfactory, if indeed such is the case. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment.

Paragraph (2) of new subsection (d) requires, also beginning with submission of the President's budget for fiscal year 1978, that, for a period of eight years after enactment of this subsection, the Secretary must include in his annual report, and provide for inclusion in the President's budget, an estimate of the sums necessary to be appropriated, over and above funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut-over that year plus a sufficient portion of the backlog of lands needing treatment to eliminate the backlog within the eight-year period. The sums estimated as necessary must include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values. After the initial eight-year period, the Secretary's annual report must contain an estimate of the sums necessary to replant and otherwise treat all lands being cut-over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent development of a backlog of needed work larger than the needed work at the beginning of the fiscal year.

Paragraph (3) of new subsection (d) provides, beginning in fiscal year 1978, an authorization for annual appropriation of \$200 million to meet the requirements of new subsection (d), especially for reforestation and other treatment of lands in the National Forest System. All sums appropriated for the purposes of subsection (d) shall be available until expended and not subject to rescission.

The new subsection (e) which is added by this bill to section 2 of the RPA requires the Secretary to submit to the Congress annually a report on the amounts, types, and uses of herbicides and pesticides in the National Forests, including the beneficial or adverse effects of such uses.

RENEWABLE RESOURCE PROGRAM

Section 4. This section amends paragraph (4) of section 3 of the RPA to delete the word "satisfy" and insert in lieu thereof the words "implement and monitor". The change is intended to express the intent of the Congress that the quinquennial renewable resource program submitted by the Secretary pursuant to section 3 of the RPA accurately reflect the types and numbers of personnel needed to aggressively implement and continually evaluate the program.

Section 5. This section further amends section 3 of the RPA to add a new paragraph (5) which requires that the quinquennial renewable resource program submitted to the Congress by the Secretary contain additional program recommendations which: (A) evaluate objectives for the major Forest Service programs in order that multiple use and sustained yield relationships among and within the renewable resources can be determined; (B) recognize the fundamental need to protect and, where appropriate, improve the quality of soil, water, and air resources; (C) state national goals that recognize the interrelationships

between and interdependence within the renewable resources; and (D) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices.

NATIONAL FOREST SYSTEM RESOURCE PLANNING

Section 6. This section amends section 5 of the RPA, which requires the Secretary to develop and maintain land and resource management plans for units of the National Forest System, by adding thereto ten additional subsections lettered (c) through (l).

Subsection (c) requires that the Secretary incorporate into plans for all units of the National Forest System the standards contained in section 5 of the RPA, as amended. He must begin as soon as practicable after enactment of H.R. 15069 and must complete this process for all units by September 30, 1985. Until the new standards are incorporated into its plans, each unit of the National Forest System may continue under existing land and resource management plans.

Subsection (d) requires that land and resource management plans be available to the public at convenient locations near the affected unit for at least three months before adoption during which time the Secretary shall afford and publicize opportunities for public involvement at locations which foster public participation in review of such plans.

Subsection (e) requires that the Secretary assure that plans for units of the National Forest System determine forest management systems, harvesting levels, and procedures, and the availability of lands and their suitability for resource management. The plans must provide for multiple uses and sustained yield of the products and services obtained therefrom in such a fashion as to insure coordination of outdoor recreation, range, timber, watershed, wildlife, fish and wilderness, and in light of these uses and the definitions of the terms "multiple use" and "sustained yield" contained in the Multiple-Use Sustained-Yield Act of 1960.

Subsection (f) contains seven paragraphs addressed specifically to plans developed in accordance with section 5 of the RPA. Such plans must:

- (1) Form one integrated plan for each unit of the National Forest System incorporating in one document all of the features required by section 5 of the RPA and any other applicable provisions of law;

- (2) Be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

- (3) Be prepared by a multidisciplinary team. Each team shall prepare its plan based on actual knowledge of the forest and upon inventories of all the resources of the forest;

- (4) Permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, tree improvement, and the like if—

- (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and

- (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;
- (5) Permit the application of silvicultural systems only if—
 - (i) such systems are determined to be appropriate to accomplish the multiple use sustained yield resource management objectives of subsection (e) (1),
 - (ii) such systems are carried out in a manner consistent with the adequate protection of soil, watershed, continuously flowing waterways and bodies of water, fish, wildlife, recreation, and esthetic resources, and with the regeneration of the timber resources,
 - (iii) there is assurance that tree regeneration can occur either by natural or artificial means within a reasonable period after harvest, but in no event longer than five years,
 - (iv) the size of areas to be clearcut is kept to the minimum needed to accomplish silvicultural and multiple use sustained yield resource management objectives of subsection (e) (1),
 - (v) the areas to be clearcut are shaped and blended with the natural terrain to the extent practicable especially where there are esthetic considerations, and
 - (vi) such system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber;
- (6) Be amended after final adoption only in accordance with the provisions of new subsections (e) and (f) and after being open to public scrutiny and public involvement comparable to that required by new subsection (d) ; and
- (7) Be revised—
 - (i) from time to time when the Secretary of Agriculture finds conditions in a unit have significantly changed, but at least every fifteen years, and
 - (ii) in accordance with the provisions of subsections (e) and (f) and the public scrutiny and public involvement provisions of subsection (d).

Subsection (g) requires that resource plans and, subject to valid existing rights, permits, contracts and other instruments for use and occupancy of National Forest System lands be made consistent with land management plans. Revision of such land management plans will require correlative revision of resource plans, permits, contracts, etc., again subject to valid existing rights.

Subsection (h) limits the duration of any contract for the sale of timber to ten years unless there is an express finding by the Secretary that a contract of longer duration will result in better utilization of the various forest resources, consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960, and except that extension may be granted by the Secretary where additional time is required because of circumstances beyond the control of the purchaser. The length and other terms of any timber sale contract shall be designed to promote harvesting which is orderly and consistent with the principles set forth in section 5 of the RPA. The contract for any advertised timber sale with a term of two years or more shall incorporate a plan

of operation, filed promptly after execution of the contract by the purchaser which shall be subject to concurrence by the Secretary and also subject to amendment to meet changing conditions. The Secretary may not extend any contract period with an original duration of two years or more unless he finds that the purchaser has diligently performed, or made every reasonable effort to perform, in accordance with a plan of operation concurred in by the Secretary and that extension would be in the public interest.

Subsection (i) requires that the Secretary, within the multiple use objectives of a land management plan adopted pursuant to section 5 of the RPA, preserve the diversity of tree species existing at the time of harvest in the region controlled by the unit plan.

Subsection (j) contains three paragraphs which require the Secretary to establish:

(1) Standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary). However, these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures nor shall they preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack;

(2) Exceptions to the standards established under paragraph (1) which permit the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including but not limited to recreation, wildlife, habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of section 5 of the RPA, as amended; and

(3) utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, etc., must reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and must be compatible with multiple use resource management objectives in the affected area. The Secretary is authorized to require the purchasers of insect-infested, dead, damaged, or down timber to make monetary deposits, as a part of the payment for the timber to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost of sale preparation and supervision of the harvesting of such timber by the Forest Service. Such deposits will be placed in a designated fund to be available until expended, and will not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of title 16, United States Code (which require that 25 percent of moneys received from each national forest go to the States for schools and roads, and that 10 percent be spent for roads and trails in the national forests). Sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

Subsection (k) requires that, together with the 1979 updating of the Assessment required by section 2 of the RPA, the Secretary must submit to the Congress a report on the milling and other wood fiber product fabrication facilities, detailing their location in the United States and identifying the public and private forested areas upon which they draw. The report must assess the degree of utilization of harvested trees into product form by such facilities and must identify technology appropriate to the facilities to reduce wasted wood fibers by improving utilization of the harvested tree or of harvested trees. The Secretary is required to set forth a program which will encourage the adoption by these facilities of the necessary technologies for improving wood fiber utilization.

Subsection (1) requires the Secretary to:

(1) Develop and implement a process for estimating all long-term costs and benefits to support the program evaluation requirements of the RPA. This process must require provision of information on all estimated benefits and expenditures including, but not limited to, those associated with reforestation, timber stand improvement, and sale of timber from the National Forest System, and must provide a comparison of these expenditures with the return to the Government resulting from the sale of timber; and

(2) Include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 7(c) of the RPA, including an identification of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process.

NATIONAL PARTICIPATION

Section 7. This section amends section 7 of the RPA by adding a proviso at the end of subsection (a) and adding a new sentence to subsection (c). The proviso added to subsection (a) provides that, except as otherwise provided in section 2(d)(3) of the RPA (authorization to carry out reforestation added by section 3 of H.R. 15069) no funds are authorized to be appropriated to carry out renewable resource programs of the Forest Service after September 30, 1980, unless specifically authorized by law enacted after the effective date of this provision. The new sentence added to subsection (c) requires that the annual report required of the Secretary by that subsection must include a description of the status of major research programs and significant findings, and a description of how these findings will be applied in National Forest System management.

TRANSPORTATION SYSTEM

Section 8. This section amends section 9 of the RPA by designating the existing language as subsection (a) and adding at the end thereof a new subsection (b). The new language provides that unless the necessity for permanent roads is set forth in the forest development road system plan, and unless it is later determined that the road or roads are needed for use as part of the forest development road system, roads constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the road-

way and areas where the vegetative cover has been disturbed by the construction of the road through natural or artificial means within ten years after the termination of such timber contract, permit, or lease.

NATIONAL FOREST SYSTEM

Section 9. This section adds to the end of subsection (a) of section 10 of the RPA, a new sentence which prevents return to the public domain except by Act of Congress of lands which now are, or may hereafter be, reserved or withdrawn from the public domain as National Forests.

Section 10. This section adds to the RPA a new section 12, styled Acquisition of National Forest System Lands which abolishes the National Forest Reservation Commission, established by the Act of March 1, 1911 (36 Stat. 961, as amended; 16 U.S.C. 513-516, 518) and transfers its functions to the Secretary of Agriculture. The new section further authorizes and directs the Secretary, as part of the report prepared in compliance with section 7(c) of the RPA, to make an annual report to Congress of all land purchases and exchanges relating to the National Forest System. The report must include an evaluation of the purchase price criteria and guidelines utilized by the Secretary for the purpose of forest land acquisition.

Section 11. This section adds to the RPA two additional new sections. New section 13 authorizes the Secretary to prescribe such regulations as he determines necessary and desirable to carry out the provisions of the RPA. New section 14 is a standard severability clause which provides that if any provision of the RPA or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the RPA and of the application of such provision to other persons and circumstances shall not be affected thereby.

ORGANIC ACT AMENDMENT

Section 12. This section amends the twelfth unnumbered paragraph of the Organic Act of 1897, 16 U.S.C. 476, by deleting the present language and supplanting it with a comprehensive timber sale provision designed to render moot the *Monongahela* and other court decisions restricting the Secretary of Agriculture to sale of dead, matured, or large growth of trees which have been individually marked. The new language provides specifically that for the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531) and the RPA, the Secretary under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands. The Secretary must advertise all sales, unless he determines that extraordinary conditions defined by regulation exist or that the appraised value of the sale is less than \$10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement. The Secretary is required to take such action as he may deem appropriate to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands, including establishment of

adequate monitoring systems to promptly identify patterns of non-competitive bidding, utilization of sealed bidding for advertised sales of one million board feet or less, and a requirement that instances of collusive practices or patterns of non-competitive bidding be reported to the Department of Justice with any and all supporting data. Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products must be conducted by persons employed by the Secretary who have no personal interest in the purchase or harvest of such products and who are not directly or indirectly in the employment of the purchaser thereof.

The Secretary, under such rules and regulations as he may prescribe, is authorized to dispose, by sale or otherwise, of trees, portions of trees, or forest products for research and demonstration projects. And finally, the new language expressly provides that timber sales made pursuant to the now deleted provision of the Organic Act prior to the date of enactment of this amendment shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale.

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

Section 13. This section requires inclusion, for purposes of calculating payments to States for schools and roads, of all collections under the Knutson-Vandenberg Act of 1930 and all credits to the purchaser in timber sale contracts for construction of roads. Specifically, this section amends the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, 35 Stat. 260, as amended, and section 13 of the Act of March 1, 1911, 36 Stat. 963, as amended (16 U.S.C. 500), by adding two new sentences at the end thereof. The first sentence provides that in the calculation of the 25 percent payment to the States for public schools and public roads, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sale contract. The second new sentence requires the Secretary, from time to time as he goes through his process of developing budget review estimates, to make available to the States for their use for local budget planning purposes his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or under any other special Acts making payments in lieu of taxes.

COMPARISON OF SALIENT PROVISIONS OF H.R. 15069 WITH THOSE OF S. 3091

On August 25, 1976, the Senate passed S. 3091 which, like H.R. 15069, is entitled the "National Forest Management Act of 1976". Both bills would amend the Forest Service Organic Act to eliminate the restrictive provision which precipitated the *Monongahela* line of cases. That provision would be supplanted under both bills by quite similar language which (1) affords the Secretary considerably more flexibility

in conducting sales of timber from the National Forests and (2) purports to validate all sales made pursuant to the Organic Act prior to enactment of these bills.

The two bills are similar in other respects. Both contain substantially similar provisions which would:

1. Prevent return to the public domain without the consent of Congress of any land now or hereafter reserved or withdrawn from the public domain as National Forests.

2. Require establishment of standards for utilization of all wood material harvested in the National Forests and also require a decennial report by the Secretary of the fiber potential of the National Forests.

3. Require that resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands be consistent with land management plans developed in accordance with section 5 of the RPA, as amended.

4. Limit the duration of timber sale contracts generally to ten years with discretion in the Secretary to extend the period under certain circumstances.

5. Require reestablishment of vegetative cover on roads constructed in connection with timber contracts unless such roads are needed as part of the forest development road system.

6. Abolish the National Forest Reservation Commission and require the Secretary to report annually to the Congress all land purchases and exchanges relating to the National Forest System.

7. Require that amounts credited to timber purchasers for construction of roads, and amounts deposited under the Knutson-Vandenberg Act for reforestation, be included as receipts from the National Forests for purposes of calculation of the amounts which must be paid to the States for public schools and public roads (twenty-five percent of such receipts).

However, there are a number of significant differences between the two bills. S. 3091 would limit sale of timber from each National Forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained yield basis. H.R. 15069 contains no comparable provision. However, H.R. 15069 would require the Secretary to establish standards which ensure that stands of trees would not be harvested until they generally have reached the culmination of mean annual increment of growth (i.e., the point at which the annual addition to the stand tapers off significantly).

H.R. 15069 contains a number of other important provisions not found in S. 3091. For example—

1. H.R. 15069 adds to the RPA a comprehensive and badly needed provision which authorizes annual appropriations of \$200 million for reforestation and directs the Secretary to eliminate within eight years the huge backlog of National Forest lands requiring such treatment.

2. H.R. 15069 requires the Secretary to perform a cost-benefit analysis of the multiple uses of the National Forests and to report the findings annually to the Congress.

3. H.R. 15069 also requires the Secretary to report to Congress on progress in research, on the impact upon domestic timber supplies and prices of import and export of raw logs, and on the use of herbicides and pesticides in the National Forests.

4. H.R. 15069 would mandate closer Congressional oversight of Forest Service renewable resource programs by terminating all existing authorizations for such programs at the end of fiscal year 1980.

5. H.R. 15069 would amend section 5 of the RPA to require by September 30, 1985, inclusion in land management plans for units of all 155 National Forests of specific, environmentally sound, silvicultural standards (including the Church Subcommittee guidelines) added to that section by the bill. S. 3091 would also amend section 5 of the RPA; but the Senate amendment would merely grant the Secretary two years to promulgate regulations which in turn would detail how land management plans would be developed and what they should contain. While the Senate bill would require that the Secretary's regulations contain numerous specific guidelines which are essentially similar to the silvicultural standards mandated by H.R. 15069, the Senate bill establishes no deadline by which land management plans must be brought into compliance with those guidelines.

There are a number of provisions in S. 3091 which have no counterparts in H.R. 15069. Included among these are the following:

1. Paragraph (d) (4) which the Senate bill would add to section 5 of the RPA would empower the Secretary to direct when and for what plans an environmental impact statement would be prepared under the National Environmental Policy Act.

2. Subsubparagraph (d) (6) (H) (iii), which the Senate bill would add to RPA section 5, contains a guideline which would preclude timber management as a goal on so-called marginal lands, i.e., lands where the estimated cost of production will exceed estimated economic return.

3. Subsubparagraph (d) (6) (J) (iv), added to RPA section 5 by the Senate bill, would permit clearcutting only where the Secretary had established, by geographic area, forest type, or other suitable classification, maximum size limits for areas to be clearcut in one harvest operation.

COMMITTEE CONSIDERATION

HEARINGS

The Subcommittee on Forests held three full days of public hearings on March 22, 23, and 24, 1976, on the issue of timber resource management. Testimony was directed essentially to two bills before the Subcommittee: H.R. 11894, the Brown-Randolph bill, a generally more prescriptive piece of legislation on such issues as clearcutting, even-aged management, the cutting of immature trees, and forest-type conversion, and H.R. 12503, the Johnson-Humphrey bill, which would direct the Forest Service to draw up regulations to strengthen the resource management of the forests in an ecologically-sound fashion. (At that time, H.R. 15069 had not yet been introduced.) Testimony was also directed to H.R. 10364 of Mr. Taylor providing interim relief, to H.R. 12130 of Mr. Duncan which, in essence, would simply revise the Organic Act of 1897, and to the general situation of and practices in the National Forests.

Testimony was received from seven Members of Congress, including Senator Jennings Randolph and Representatives Les AuCoin, Don H. Clausen, Robert B. Duncan, Harold T. Johnson, Roy A. Taylor, and Don Young. In addition, the Forest Service of the USDA and over 60

groups and individuals, including trade associations, timber, lumber, and furniture companies, professional forestry organizations, environment groups, state officials, and members of the academic community, testified before the Subcommittee. Statements were also received from the Governors of Idaho and Oregon and from many interested persons.

Three Members of Congress, Representatives AuCoin, Clausen, and Johnson, had introduced or co-sponsored H.R. 12503 or similar bills. Their testimony emphasized the need for a change in the Organic Act of 1897 in the wake of the Monongahela decision in order to permit needed levels of timber harvesting. They considered the approach in the Brown-Randolph bill as too prescriptive, and Mr. AuCoin and Mr. Duncan expressed concern that the bill could have a serious adverse effect on timber harvesting, particularly given its provisions on clearcutting.

In contrast, Senator Randolph, who had introduced the Senate companion bill to H.R. 11894, rejected charges that his proposal unnecessarily shackled professional foresters. Senator Randolph claimed that massive clearcutting was having a destructive effect environmentally and that the practice had to be limited.

Representatives Taylor and Young argued for their interim measures, claiming that the timber industry's need for immediate relief from recent court decisions would not be met by general reform legislation which inevitably would take one and one-half years to formulate and implement. Representative Duncan appeared on behalf of his bill which he presented as a basic solution to the problems created by the Monongahela decision.

Chief John McGuire of the Forest Service, USDA, "strongly recommended" enactment of H.R. 12503. He was of the view this was an appropriate, non-prescriptive piece of legislation that would resolve the problems created by the Monongahela decision and that would at the same time strengthen and refine the basic planning process of the Forest Service. The Chief argued against any interim measure, stating that the planning process for the forests would suffer from a delay in congressional direction. In response to questions, the Chief agreed that better methods of supervision of timber sales contracts had to be developed, and discussed public involvement in the Forest Service planning procedure. The Chief discussed clearcutting and suggested that while the Forest Service was trying to limit the size of clearcuts, clearcuts are often found in nature and do not have the negative effects on soil nutrients that some have claimed. The Chief argued for the continued multiple-use system as opposed to dominant-use planning and expressed his belief that private lands could not make up for the loss of timber from the National Forests that would result from H.R. 11894.

The Chief also supported a statutory designation of the National Forests, and congressional direction on the length of timber contracts (between 7 and 10 years).

The wood products and housing trade associations, the timber, lumber and wood-processing companies, the private forest managers, and the forestry associations all called for legislative relief from the Monongahela decision, claiming that if that decision were to be applied to the rest of the country, there would be increased unemployment and severe timber shortages. Only one of the environmentally oriented

witnesses called for a continuation of the Organic Act of 1897 as interpreted by the 4th Circuit while the others recognized the need for some change. As a result, the debate between the industry and the environmentalists focused on what appropriate legislation could be used to revise the Organic Act of 1897.

Some of the industry witnesses, particularly those from the Western states, called for legislation that would allow more harvesting than present Forest Service practice or H.R. 12503 would permit. In addition, some of the professional foresters called for dominant use management as a replacement of present multiple use principles. Most industry witnesses as well as the forestry associations and several state officials however testified in favor of H.R. 12503. They complained that H.R. 11894 would reduce the timber supply from National Forests by 40-60 percent, that private lands would not compensate for lost National Forest timber production and that thus wood product prices would climb.

The opponents of H.R. 12503, who were generally proponents of H.R. 11894 and who were composed of environmental and wilderness groups and various professors of forestry and wildlife management, argued that at times in the past the Forest Service had been too receptive to the industry viewpoint, and that Congressional prescription on timber management practices was imperative. There was a general denial that H.R. 11894 would cut timber production and increase prices in an aggregate sense. Several groups with an interest in Alaska claimed that through its contract length limitation clause, its stream buffer provisions, and its limits on clearcutting, H.R. 11894 would have a beneficial effect for Alaska, including the preservation of wilderness areas and of the salmon runs.

Much of the debate centered on the clearcutting limitations of H.R. 11894. Questions were raised as to the nutrient loss due to clearcutting and as to the actual reduction in timber harvesting that would result from the provisions of H.R. 11894. In addition, there was debate as to the impact clearcuts had on wildlife.

Other provisions of H.R. 11894 that were at the center of discussion included provisions for buffer zones along streams, which faced particular opposition from Alaska lumber interests, the reforestation provisions, the even-aged management section, the ban on the conversion of eastern forests, the limitation on the length of contracts, the total ban on the use of DDT, which was opposed by the Forest Service, and the revision of the timber sales accounting methods.

In addition to testimony on the specific bills before the Subcommittee, there were a variety of comments directed to other aspects of the National Forests. Some state officials urged that Clark-McNary funds for forest fire protection should be restored and that monies should be allocated to combat the mountain pine beetle. The Forestry Incentives Program was also a topic of consideration, with some private land owners and other trade organizations urging that more funding be provided for the program.

SUBCOMMITTEE MARKUP

The Subcommittee on Forests conducted nine days of markup sessions, held on June 23, 29, and 30, July 26, 27, 28, and 29, and August 2

and 3. At the outset, a comparative committee print of seven bills (H.R. 12503, 13238, 13832, 11894, 13236, 12130, and 10364) representing differing basic approaches was prepared to serve as a basis for markup. The bills included H.R. 11894 introduced by Mr. Brown (a companion to S. 2926 introduced in the Senate by Senator Randolph); H.R. 13832 by Mr. Weaver (similar to S. 3091 as it was reported by the Senate Committee on Agriculture and Forestry); H.R. 12503 and H.R. 13258 introduced by Mr. Johnson of California and Mr. Baucus, respectively; and H.R. 13236, co-sponsored by Mr. Litton and Mr. Symms. All these bills provided differing standards for management of National Forests—some were more prescriptive in nature than others. In addition, there was included H.R. 12130 of Mr. Duncan (which essentially repealed the provisions of the Organic Act that gave rise to the Monogahela decision) and H.R. 10364 of Mr. Taylor (which provided relief until September 30, 1977, from the Monogahela decision). H.R. 14667 sponsored by Mr. Jones of Tennessee and H.R. 14542 sponsored by Mr. Young of Alaska were later added to these bills (the latter was limited to providing relief to Alaska from the *Zieske* decision).

The Subcommittee discussed these bills in detail and agreed on a series of provisions which were incorporated into a clean bill. Many of these were contained in one or more of the bills in the comparative print; others originated from the Subcommittee debate.

As an initial decision, the Subcommittee decided not to include a preamble for findings section, rejecting a motion to adopt section 2 of H.R. 13832 (findings section). It also decided not to include a definitions section until after a final clean bill had been developed.

The attention of the Subcommittee was then directed to suggested amendments to section 2 of the Forest and Rangeland Renewable Resources Planning Act (hereinafter RPA) of 1974, a section dealing with renewable resource assessments by the Secretary of Agriculture. Language from H.R. 13832 requiring a report of the Secretary and periodically thereafter on the additional fiber potential of the National Forests was adopted. The Subcommittee members saw as a major purpose of the new language an expression of congressional sentiment that the Forest Service should thoroughly investigate the harvesting potential of dead and dying trees.

Towards the end of its markup sessions, the Subcommittee returned to section 2 of the RPA and, reflecting its concern about the future productivity of the National Forest System, added to that section by a unanimous vote a major reforestation program provision. Included in the addition is a \$200 million annual authorization for reforestation and timber stand improvement. The authorization was not considered a ceiling on the amount that could be appropriated since there was other existing authorization available for this purpose. The Chief of the Forest Service indicated that within one or two years of initiation of the program, the \$200 million could be fully utilized. This provision has as its primary objectives the elimination in an eight-year period of the backlog of lands in need of reforestation and other treatment and the treatment of such lands on a current basis thereafter.

In its consideration of section 3 of the RPA, the Subcommittee included additional requirements for the Forest Service renewable resource program submitted to Congress, namely, that it should include

detailed study of personnel requirements to "implement and monitor" rather than merely "satisfy" existing and on-going programs. This revision was made in order to reflect concerns about the inadequacy of current personnel levels to properly monitor on-going timber sales and to emphasize congressional intent that the Forest Service should report fully under the provisions of section 3 of the RPA on personnel needs for a complete implementation and monitoring of all programs.

Much of the markup sessions was devoted to consideration of amendments to section 5 of the RPA, which provides for the development of land and resource management plans for units of the National Forest System. At the outset, provisions were included for public participation in the development of the plans. The Subcommittee, after extended discussion, also moved to facilitate public involvement in the planning process by requiring that all the plans for one unit be integrated together and included in one document; this language was included in spite of concerns expressed by the Forest Service about the practicality of such a provision.

In amending the provisions of section 5 of the RPA, the Subcommittee discussed the form that the guidelines contained in the bill should take. Two alternatives were presented. The first was represented by section 5 of H.R. 13832, which provided relatively detailed congressional guidance for the development of regulations to be formulated by the Secretary over a two-year period and which in turn would govern the development of the plans. The land management plans were to control the resource plans, permits, and contracts issued by the Forest Service on particular units of the National Forests. H.R. 13226 presented the other alternative. It provided direct guidance to the Secretary on the drawing-up of the plans—such requirements to apply immediately on enactment of the bill for the planning process of the Forest Service. The Subcommittee adopted the approach of H.R. 13236, which would become section 5(f) of the RPA, because of its belief that it would have immediate effect on the planning process; whereas, the other approach would be subject to much administrative delay and did not place a time limitation by which the planning process had to be completed and the guidelines in place.

After its acceptance of language from H.R. 13236 to amend section 5 of the RPA, the Subcommittee also included language from H.R. 11894 (section 15(b)) that directed that the plans be prepared by multidisciplinary teams. However, it refused to require that the multidisciplinary teams view all resource inventories with equivalent dignity and detail because of issues raised as to vagueness of the language.

In amending section 5 of the RPA, the Subcommittee spent several days considering timber harvesting guidelines set forth in a Report entitled "Clearcutting on Federal Timberlands" by the Subcommittee on Public Lands of the Senate Committee on Interior and Insular Affairs, dated March, 1972. The guidelines are familiarly known as the "Church Subcommittee" guidelines. These guidelines evolved from five days of hearings held by the Senate Subcommittee in 1971 on clearcutting at which time over 90 witnesses were heard. The guidelines were intended to eliminate environmental problem areas while at the same time meeting important national needs for timber. The Subcommittee considered similar versions of the Church Subcommittee guidelines contained in H.R. 13236 and H.R. 13832 and agreed to

include language largely based on H.R. 13236. The language was modified to reflect the Subcommittee's intent that intensified harvesting would be cut back "at the end of each planning period" if the level of cutting were based on management practices such as reforestation which were not being implemented within the planning period or funds had not been received substantially as planned for such practices.

One of the amendments adopted imposed the requirement that in applying silvicultural systems "adequate" consideration must be given to soil, watershed, recreation, esthetic interests, and the regeneration of timber resources.

There was a suggestion that a silvicultural system not be permitted if dollar returns were the "only" criteria for its selection, but the Subcommittee agreed to retain language that it must not be selected "primarily" for that reason. Proposed language mandating clearcuts as "small as feasible" was also revised because it was believed that such language could be used to reduce clearcutting to totally uneconomical proportions; instead, the Subcommittee intended that clearcutting be kept to a minimum practical size in forest harvesting.

In its final session, the Subcommittee returned to section 5 of the RPA and considered several additional provisions. Language was adopted directing the Secretary; insofar as practicable, to preserve the diversity of tree species similar to that existing at the time of harvest in the region controlled by the unit plan. This provision was intended to prevent monoculture in units of the National Forest System. The Chief of the Forest Service indicated support stating that it allowed enough flexibility to permit such programs as the "pioneer species" practice. However, a related proposal to prescribe primarily uneven-aged management in Eastern forests was rejected by the Subcommittee after hearing opposition from the Forest Service that this would be the first time Congress would be taking steps to prescribe a particular silvicultural practice and that this would result in drastic changes in present forestry methods in Eastern United States.

The Subcommittee added language that would become section 5(j) of the RPA requiring the Secretary to establish standards with reference to the maturity of trees. The definition of maturity used in the section is in essence the one currently used by most foresters and the Forest Service; namely, that the Secretary establish standards to insure that prior to harvest stands of trees throughout the National Forest System shall generally have reached "the culmination of mean annual increment of growth". It was explained that this was a term used by foresters to describe when the stand of trees, not the individual trees, reaches a point of growth when the annual additions began to taper off. The Forest Service stated that it now uses this term to determine the rotation or harvest age of a stand of trees. This provides a different test than the provision in the 1897 Organic Act which requires that timber sales be made only of mature trees and was not designed to preclude clearcutting which comported with other requirements of the Act. Exceptions were provided for practices such as thinning, stand improvement and harvesting of trees in imminent danger from insect or disease. Also, the word "generally" was included in the section to allow the cutting of non-mature timber for, *inter alia*, experimental and research purposes.

Several amendments were adopted by the Subcommittee dealing with the administrative-procedural side of the planning process. Language was adopted calling for periodic review and revisions of the plans of all units of the National Forest System whenever conditions have significantly changed but at least every fifteen years. (Sec. 5(f) (7) of the RPA.)

A provision limiting timber sales contracts to a period of ten years was included. (Sec. 7(h) of the RPA.) The Forest Service indicated that in most instances it would award contracts covering a maximum period of six to seven years. An exception to the ten-year limit was made when, at the Secretary's discretion, an adjustment had to be made because of circumstances beyond the contractor's control or when the Secretary made a finding that better utilization of the various forest resources will result from a longer term contract. Among those circumstances included strikes and acts of agents of the United States. It was generally agreed that economic conditions, such as a drop in lumber prices, would not qualify as such a circumstance. In any event, the Subcommittee intended that the contractor must have made every reasonable effort to finish his contract within the ten-year time frame.

To discourage speculation, the Subcommittee added a requirement that a plan of operation was to be filed upon award of a contract whose term was two years or more. However, so as to avoid burdening the small operators with heavy paperwork requirements, the Subcommittee was of the view that a brief description, often in letter form, of how and when the timber would be harvested would suffice. The plan of operation was required to be included as part of the contract but subject, at the Secretary's discretion, to amendment in order to meet changing circumstances.

The Subcommittee agreed to a requirement that all contracts had to be in conformity with the plans; and that as soon as practicable present contracts must be revised in order to bring them in conformity with RPA plans. Any revision would be subject to valid existing rights.

In considering transportation systems, the Subcommittee added language to section 9 of the RPA requiring that roads built in connection with timber contracts be such that a vegetative cover could be re-established in ten years unless the roads were designed to be permanent. Because of jurisdictional questions raised by the Committee on Public Works, the Subcommittee did not consider language that would have amended the National Forests Roads and Trails Act to delete the "prudent operator" provision or amend road building standards.

Section 10 of the RPA was changed to make statutory the boundaries of the National Forest System, in part at the request of the Forest Service over opposition of a Member that this could be an obstacle to the hopes of certain Western States to eventually manage greater portions of Federal land in those States.

Three new sections were added to the RPA, one abolishing the National Forest Reservation Commission, which, according to several Members, was a moribund body, another adding a severability provision and a final section authorizing the Secretary to issue regulations deemed necessary.

The Subcommittee then agreed on amendments to the Organic Act of 1897 which deleted the restrictions on sales that gave rise to the Monongahela decision.

Added to the amendments to the Organic Act of 1897 was language validating all present timber sales contracts and contracts entered into prior to the enactment of the bill unless they were in violation of Forest Service silvicultural practices and sales procedures in effect at the time of the sale. Proposals to validate any contracts whose provisions might be found in violation of the Organic Act of 1897, the twelfth unnumbered paragraph of that Act, or the Multiple-Use Sustained-Yield Act of 1960 were all rejected as too inclusive.

At the end of its consideration, the Subcommittee moved to report to the full Committee the Subcommittee print as an amendment in the nature of a substitute for the text of H.R. 13236 with a recommendation that it pass. Action was taken in the presence of a quorum by a vote of 9 to 1. A clean bill (H.R. 15069) was then introduced by the Acting Chairman of the Subcommittee containing the provisions agreed to by the Subcommittee and this became the subject of Committee action.

COMMITTEE MARKUP

The Committee considered H.R. 15069 in markup sessions on August 26, 31, and September 1, at which time it added several provisions to the bill reported by the Subcommittee.

The first issue discussed related to the requirement in section 5(j) as added to the RPA that the Secretary shall establish standards to insure that stands of trees generally have reached the culmination of mean annual increment prior to harvest. Mr. Bowen offered an amendment to require that the determinations be made by cubic measurement rather than by board feet. Cubic measurement includes the entire content of the tree as used for lumber, pulp, slabs and for the other many purposes for which it is sold; while board foot measurement includes only what is useful as saw timber and would extend the time period prior to harvest. The Committee was advised that the Forest Service now uses cubic measure. After discussion, the Committee agreed to the amendment with an amendment that would give the Forest Service flexibility as to which method of measurement should be used. It also agreed to give the Forest Service flexibility to use either net growth tables or gross growth tables in these calculations, whichever is in the best interest of the sound management of the forest. This was accomplished by deleting a specific reference to new growth from the bill.

A number of amendments offered by Mr. Weaver were considered and adopted. One would require as an amendment to section 3 of the RPA that every five years with the Program transmitted to the President, the Forest Service provide an evaluation of the export of raw logs on domestic timber supplies. The proposal was amended to provide that the study include imports as well, and the effect of exports and imports on timber prices. Another proposal adopted would as an amendment to section 7(a) of the RPA establish a "sunset" provision terminating as of September 30, 1980, currently existing authorizations of appropriations to carry out Forest Service renewable resource programs (but not the authorization for reforestation contained in section 3 of H.R. 15069). The proposal was agreed to by the Committee to provide firmer congressional control and oversight over the policies of the Forest Service.

A third proposal offered by Mr. Weaver was similar to an amendment added by Senator Bumpers to S. 3091, the bill that recently passed the Senate. This would provide that in determining the amounts payable to the States for public schools and roads from timber receipts, there be taken into account the amounts allowed timber purchasers as credits for road construction. It was pointed out in debate that if the forests were in private ownership, the property taxes in the county would be substantially higher. Further, the county roads must be built to serve loggers and others who make use of the National Forests. The credits for road construction currently allowed timber purchasers on timber contracts are not now included as moneys received from the National Forests against which the percentage is applied for calculation of payments to the States. Purchaser credits have increased from \$65 million in 1966 to \$210 million in 1976 thereby drastically reducing the base used to calculate the payment to the States. Also included in this amendment was a requirement that the deposits made by timber purchasers for reforestation under the Knutson-Vandenberg Act likewise be included in the base for calculation of payments to the States.

The Committee accepted an amendment by Mr. Brown to section 2 of the RPA that would require the Secretary to submit an annual report to Congress on the amounts, types and uses of herbicides and pesticides in the National Forests including the beneficial and adverse effects of such use. Another amendment by Mr. Brown agreed to by the Committee (section 5(1) of the RPA) requires the Secretary to develop a method for estimating long-term costs and benefits to support the program evaluation requirements of the RPA so as to provide information as to the cost-benefits on all multiple uses of the National Forests including particularly reforestation, timber stand improvement and on timber sales. This information would be required to be included in the annual report required by section 7(c) of the RPA along with identification of timber sales made below estimated expenditures. It was explained that the amendment did not stipulate any particular kind of cost accounting system. The Secretary was directed to meet this requirement as soon as practicable. This provision was designed to cure the lack of adequate information with regard to cost-benefits of Forest Service management processes. It would take account of the entire scope of the uses under the Multiple-Use Sustained-Yield Act, such as watershed, recreation, wildlife, and grazing.

Mr. Krebs also offered several amendments which were agreed to by the Committee. One of the amendments set up a system for financing work that is to be done in connection with salvage sales (section 5(j) (3) of the RPA). It would require purchasers of timber under salvage sales to deposit in advance part of the money to be paid under the contract so as to finance the extra work and expenses needed to be done by the Forest Service in connection with the sale. It would set up a revolving fund with the deposits rather than require the Forest Service to turn the money over to the Treasury and then wait for the appropriations and, through the delay, cause further deterioration of damaged and diseased trees. A proviso was added exempting the deposits from being used as part of the base for calculating payments to the States.

Mr. Krebs proposed an amendment to the Organic Act of 1897 which required the Secretary to take action to avoid collusive practices in bidding for timber from the National Forest including establishing monitoring systems, requiring sealed bidding to be predominately used for advertised sales of one million board feet or less and requiring that a report of instances of collusive practices be submitted to the Department of Justice with supporting data. The amendment with slight modifications was agreed to by the Committee. While the Committee acknowledged that the Secretary has discretion to reject bids for any reason, it is the Committee's intent that where collusive actions have affected the bid then the Secretary must reject the bid.

Mr. Harkin proposed an amendment to provide for a border of trees as buffer strips on flowing waterways and bodies of water. The proposal was accepted after being amended to provide in section 5(f) (5) of the RPA that silvicultural systems shall be carried out in a manner consistent with adequate protection of continuously flowing waterways and bodies of water. It is the Committee's intent that where appropriate for sound erosion control and watershed protection that a border of trees be left along the streambeds, it being left to the discretion of the Secretary to determine when such action is appropriate and what should be the size of the border of trees.

Amendments were considered by the Committee relating to utilization of wood fibers left over after timber harvesting activities. It was pointed out that approximately 15 percent of tree materials are left on the site in the form of stumps, branches and wood debris that could be salvaged for wallboard, pulp, paper, and furniture. The Committee agreed to an amendment by Mr. Nolan (section 5(h) of the RPA) to require the Secretary to submit with the 1979 Assessment a report of wood fiber product fabrication facilities, the public and private forests from which they draw, the degree of utilization of harvested trees by such facilities, and suggested improvements in technology to reduce waste of wood fibers. It rejected, however, an amendment to provide loans to mills for equipment to process wood fibers in the amount of \$100 million annually.

In other action, the Committee agreed to an amendment proposed by Mr. Breckinridge to provide that with regard to the research component of the program, the annual report of the Forest Service required by section 7(c) of the RPA would include the status of major research programs and how the findings will be applied to National Forest System management. It was stated that funds already authorized were sufficient to cover the expenses involved in this work. The amendment was offered as a substitute to a proposal by Mr. Brown which required a five-year research program into timber harvesting methods for the Eastern mixed hardwood forests with the view of providing for the maintenance of a general canopy for regenerating hardwood species with an authorization of \$20 million. The Forest Service explained that its research budget currently approximates \$80 million a year with \$17-\$20 million devoted to trees and silviculture. It opposed Mr. Brown's amendment since it mandated a research outcome that may be impossible to achieve.

An amendment was offered by Mr. Krebs to clarify that nothing in the Act shall be construed as cause for not proposing to the Congress

the inclusion of Forest System lands in the Wilderness Preservation System or the exclusion of such lands from the Wilderness System. The Committee decided that there was no need to include this provision in the bill since it was apparent that H.R. 15069 had no effect whatever on the National Wilderness Preservation System.

Several additional amendments were considered and rejected by the full Committee. Mr. Krebs offered and the Committee debated at length the so-called "marginal lands" amendment, which is contained in S. 3091, the Senate-passed version of the National Timber Management Reform Act of 1976. This amendment had also been defeated during Subcommittee markup. The amendment proposed to direct the Secretary of Agriculture:

to identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where the estimated cost of production will exceed estimated economic return: *Provided*, That the estimated cost of production will include only direct timber production costs and not access, protection, revegetation, and administrative costs for multiple use purposes.

The sponsor of the amendment indicated that the amendment simply establishes a type of cost benefit test for timber production investment that requires the Forest Service to weigh the cost of timber production against the gains that would be realized at the time of harvest. If it appears that the cost will exceed the economic benefits, then the investments may not be made.

Members speaking against the amendment indicated their concern over the ambiguity of the language as drafted, that the amendment as drafted would foster litigation, that it would have damaging consequences on forest management as well as providing excessive discretion to the Secretary in making a determination relative to what lands are marginal and on what basis the determination has been made. It was pointed out, for example, that there are lands within the National Forest System that would be classified as marginal on the basis of saw-timber production; however, they also produce pulp timber on an economic basis and such a rotation was beneficial to wildlife, particularly in providing forage for deer. It was also stated that many people use forests for recreation and other uses, that this provision would create problems in determining how to allocate costs and benefits as between all the various uses under the Multiple-Use Sustained-Yield Act, and that if this were to apply only as to timber it would be discriminatory.

The amendment was defeated by voice vote of the Committee.

The Committee also considered and rejected two amendments to the section of H.R. 15069 setting forth policy regarding reforestation of lands within the National Forest System. The bill provides that these lands be maintained in "appropriate forest cover". Mr. Brown proposed to strike this phrase and insert language to require reforestation with the species of trees distributed in the area.

Mr. Brown indicated that his purpose was to maintain the integrity of the forest and to introduce the concept that the forest as it currently exists with trees as they are currently distributed shall be the

standard which shall be sought to be maintained. He further indicated that he was seriously concerned with the possibility of conversion of forest types.

Members who opposed this amendment expressed concern over possible consequences on sound forest management. For instance, there was widespread concern expressed that the amendment would interfere with the introduction of species that might prove beneficial to the area or that it might severely reduce the flexibility of the Forest Service to deal with situations where a stand was destroyed by fire, for example, where it would be beneficial to increase stand diversity to replace a mono-culture which existed at the time of the fire. This amendment was defeated by voice vote following lengthy discussion.

The Committee also rejected another amendment to this section proposed by Mr. Brown which would have prohibited the Secretary from reforesting lands on which he has determined "that the estimated cost of production exceeds the estimated economic return."

Members opposed the amendment because they felt that its provisions were ambiguous, that the language did not take into consideration the multiple uses of the forest and that they were concerned with the difficulty of measuring the costs and economic benefits to the Federal Government resulting from these other uses, such as watershed protection. Following extensive discussion, the Committee rejected this amendment by voice vote.

A major amendment was proposed by Mr. Weaver which sought to "limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any 10-year period do not exceed such quantity limitation." The amendment further proposed that "in those cases where a forest has less than 200,000 acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield." The proposed amendment contained an exclusion providing that this language does not "prohibit the Secretary from salvaging timber stands which are substantially damaged by or are in imminent danger of fire, windthrow, or other catastrophe."

Mr. Weaver indicated that his language addressed the question of the rate of liquidation of old-growth timber stands, which exist primarily in the Northwest and in the inter-mountain area. He stated that the language generally reflected present Forest Service policy and was necessary to prevent a boom and bust cycle and contributes to community stability by establishing a timber reserve of old-growth stands.

In opposition to the proposal it was pointed out that existing law provides the Forest Service the discretion to follow this policy, which they are doing, but that this policy should not be frozen into law until more information was obtained regarding its effect on various areas of the country. This argument was advanced particularly by Members from the inter-mountain area (Montana, Idaho, Colorado), who expressed concern over the actual effect of such a policy on these areas. They stated that it would not work in the inter-mountain area where

there are over-mature stands subject to disease and where the old-growth timber must be harvested for good timber management.

They further argued that the amendment as proposed was more restrictive than the sustained yield principle contained in the Multiple-Use Sustained-Yield Act, setting both an area base and a shortened time period for calculating compliance, and that it would reduce timber sales in the West.

In discussion Chief McGuire stated to the Committee that even-flow non-declining yield is Forest Service present policy. "However, we do have, as I understand it, some discretion to alter that policy from time to time as long as we do not depart generally from the sustained-yield concept."

Chief McGuire also indicated in a direct reply to the sponsor of the amendment that the situation in the inter-mountain areas was in fact different from that in the far West. Chief McGuire stated that in the inter-mountain area: (1) certain areas have soils which are relatively unstable which require different technology; (2) much of the area is roadless and because of this, the Forest Service is encountering difficulty in bringing the forest under management; and (3) a great area of forest is damaged by insects. The Chief indicated there are approximately 26 billion board feet of timber in the National Forests that are insect-killed or damaged, with a good portion of that timber in the Rocky Mountains.

Following lengthy debate, this proposed amendment was defeated by a roll call vote of 9 ayes and 26 nays.

The Committee considered and rejected an amendment which provided that any extension of a timber sale contract by the Secretary shall be granted only during the final six months of the contract period and that when the Secretary extends a contract, the price for the trees remaining to be harvested shall be raised to any higher prevailing price but never lowered below the price in the expiring contract.

Another amendment offered by Mr. Brown but rejected by the Committee would have directed the Secretary to establish a maximum size limit for clearcuts according to geographic areas, forest types, forest health, wildlife resources, multiple use, or other suitable classifications. The proposed amendment would have further directed the Secretary to submit a report every two years, commencing in 1980, listing those sales made during that two-year period in which the clearcut area exceeds or will exceed the established maximum. The sponsor of the amendment indicated that it was designed for informational purposes and that it was his intention that the Secretary may exceed the established area imitations should he choose to do so.

Members who opposed the amendment argued that it reduced the flexibility of the Forest Service and interfered with provisions already in the bill requiring the Secretary to keep the clearcut area at a minimum necessary to fulfill multiple use objectives. Further, it was pointed out that the bill already provides for public input and public scrutiny of the land management plans developed by the Forest Service.

At the conclusion of its deliberations, the Committee agreed by a recorded vote of 37 ayes to 1 nay, in the presence of a quorum, to a motion by Mr. Melcher of Montana that H.R. 15069, as amended, be reported to the House with a recommendation that it do pass.

ADMINISTRATION POSITION

The following letter was received by the Committee from the U.S. Department of Agriculture expressing the position of the Administration on H.R. 15069:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 7, 1976.

Hon. THOMAS S. FOLEY,
*Chairman, Committee on Agriculture,
House of Representatives.*

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 15069, a bill "To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes," as amended and reported by the Committee on Agriculture.

The Department of Agriculture appreciates the high priority attention the Subcommittee on Forests and the Committee on Agriculture have given to the forest management legislation. We are pleased that the Committee in its development of the legislation has taken into consideration the views of the Department as expressed in our testimony and previous correspondence. H.R. 15069 as reported includes the provisions we view as essential and has not included certain of the provisions in other bills to which we objected. The Department of Agriculture recommends that H.R. 15069 be enacted. We, however, recommend that sections 3 and 6 be modified and that section 13 be deleted.

H.R. 15069 would amend sections 3, 5, 9, and 10 of the Forest and Rangeland Renewable Resources Planning Act to provide additional direction on the Renewable Resource Program, on planning, on the transportation system, and on the status of the National Forest System. The direction on planning is a major part of the bill and provides detailed direction and guidelines for land management planning. It would also amend sections 2, 5, and 7, providing for a report on fiber potential; an increased program of reforestation; a report on use of herbicides and pesticides; an expanded program of timber salvage; a report on wood processing facilities; an improved cost accounting process; a requirement to seek new appropriation authorizations after 1980; and an expanded report of research results. H.R. 15069 would also add new sections 12, 13, and 14 to the Forest and Rangeland Renewable Resources Planning Act providing for abolishing the National Forest Reservation Commission, for promulgation of regulations, and for placing a severability provision in the Act. H.R. 15069 would also amend the Organic Act of June 4, 1897, to provide new timber sale authority. Finally, the Acts of May 23, 1908 and March 1, 1911 as amended would be further amended to include collections under the Act of June 9, 1930, and timber purchaser road credits as receipts for purposes of determining payments to States.

Section 3 is a new provision pertaining primarily to reforestation. The Forest and Rangeland Renewable Resources Planning Act of 1974 and the Act of September 18, 1972, already provide direction regarding reforestation needs and targets for the elimination of backlogs of needed work. Based on this existing statutory direction, we believe that section 3 is unnecessary, and we prefer that it be deleted.

We, however, are aware that the Committee felt strongly that additional direction should be provided on reforestation. We believe that if section 3 is modified it can be made compatible with existing statutory direction. The section should be limited to deal with commercial forest land; it should be narrowed to deal only with reforestation and related stocking levels; it should be an amendment to section 8 of the Forest and Rangeland Renewable Resources Planning Act rather than section 2 and be made to supplement the direction contained in section 8; and the reporting requirements should be included as part of the reporting required in subsection 7(c) of the Forest and Rangeland Renewable Resources Planning Act. We also believe that the provision which would make appropriations under the section not subject to rescission, should be deleted so that the basic provisions of the Congressional Budget and Impoundment Control Act of 1974 would apply. We have attached a proposed redrafted section 3, exclusive of subsection (e), which we urge be adopted, if the section is retained.

Section 6 on National Forest System planning includes a number of provisions in addition to those we originally recommended. We would have preferred that this section contain less detailed direction; however, we recognize that the section is the result of extensive Committee deliberation. At this time, we recommend four clarifying or improving changes to this section. They are enumerated and discussed in the attached supplemental statement.

We recommend that section 13, Payments to States for Schools and Roads, be deleted. In our letter to the Committee of June 23, 1976, on H.R. 13832, we stated that various approaches to "payments in lieu of taxes" are under study, that there is no apparent equity in the approach of the proposed provision, and that the provision would have an adverse effect on the Federal budget. We continue to have these objections.

Finally, we note that H.R. 15069 contains a number of reporting requirements and a requirement to seek new appropriation authority after September 30, 1980. These requirements may prove unnecessarily cumbersome, and it may be advisable to combine them with other existing requirements or procedures of the Forest and Rangeland Renewable Resources Planning Act.

We estimate the average annual cost of the legislation would be \$184 million. This would be reduced to an annual cost of \$22 million if the bill is amended as we suggest. We also estimate that the new provision for salvage sales would generate an average of at least \$10 million per year in new Federal receipts. The details of these estimates are contained in our enclosed supplemental statement. Failure to enact legislation to amend the 1897 Act would have serious consequences and could reduce National Forest System receipts by nearly 40 percent, or \$200 million to \$300 million per year by 1981.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN A. KNEBEL,
Under Secretary.

Enclosures.

USDA SUPPLEMENTAL STATEMENT ON H.R. 15069

Proposed redraft of section 3, exclusive of subsection (e) :

REFORESTATION

SEC. 3. Section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974 is redesignated as subsection 8(a) and amended by adding at the end thereof a new subsection (b) as follows :

(b) (1) It is the policy of the Congress that all commercial forest lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary of Agriculture is directed to identify and report to Congress annually the amount and location by forests and States and by productivity class where practicable of lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise are in need of reforestation and are not adequately stocked with desirable trees. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to adequacy of stocking. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

(2) The Secretary shall annually following the enactment of this subsection, transmit to the Congress an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year plus a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog in accordance with this section. The Secretary shall transmit annually to Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over, or otherwise in need of reforestation so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary of Agriculture's estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually as part of the report prepared pursuant to section 7(c). The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin,

remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforestation and treating lands in the National Forest System \$200,000,000 annually to meet requirements of this subsection (b). All sums appropriated for the purposes of this subsection shall be available until expended.

USDA SUPPLEMENTAL STATEMENT ON H.R. 15069

CLARIFYING AMENDMENTS TO SECTION 6

We believe that the direction in section 6 would be improved if the following amendments were adopted:

1. Subsection (f)(1) revised to read: "(1) form one integrated plan for each unit of the National Forest System, incorporating in one place all of the features required by this section."

With this proposed change, it would be clear that the documentation making up the plan for each unit of the National Forest System is to be available in one location for review by the public. The deletion of "and any other applicable provisions of law" would avoid possible confusion as to the scope of plans and requirements for revision. The National Forest System would still be subject to all applicable laws.

2. Subsection (f)(5)(vi) revised to read: "(vi) such system is not selected only because it will give the greatest dollar return or the greatest unit output of timber."

We have substituted the word "only" for "primarily." We believe this will more clearly allow for a balanced consideration of all factors in selecting the appropriate system of management.

3. Subsection (i), regarding diversity, revised by the deletion of the words "at the time of harvest."

We believe the intent of this subsection is to provide for diversity in the region controlled by the unit plan. The term "at the time of harvest" is confusing and not necessary to accomplish the purpose of the provision.

4. Subsection (1)(2) revised to delete the words "including an identification of those timber sales which were sold as advertised sales made below the estimated expenditures for such timber as determined by the above cost process."

We believe the requirement to identify and report individual sales would be cumbersome and is not necessary. The objectives of the subsection can be accomplished by comparing various classifications of land rather than individual sales.

USDA SUPPLEMENTAL STATEMENT ON H.R. 15069

[In millions of dollars]

	Transi- tion quarter	1977	1978	1979	1980	1981	Total
Estimate of costs:							
Report on fiber potential (sec. 2).....	0	0.5	0.5	0.5	0.5	0.5	-----
Reforestation (sec. 3).....	0	45.0	95.0	145.0	145.0	145.0	-----
Reforestation (if amended as recommended).....	0	0	0	0	0	0	-----
Planning (sec. 6).....	0	20.0	20.0	20.0	20.0	20.0	-----
Payments to States (sec. 13).....	0	21.9	64.7	54.0	49.5	45.0	-----
Additional study and reporting requirements.....	0	1.0	1.0	1.0	1.0	1.0	-----
Total.....	0	88.4	181.2	220.5	216.0	211.5	917.6
Estimate of new receipts: Salvage sale program (net receipts to Treasury after all deductions).....	0	5.7	9.4	9.4	9.4	11.0	-----

CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATES

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates that certain costs will be incurred by the Federal Government during the current and five subsequent fiscal years as a result of enactment of H.R. 15069.

Section 12 of H.R. 15069 effectively repeals the restrictive language in the Forest Service Organic Act which several federal courts have recently interpreted to require drastic reduction in the quantities of timber which may be harvested annually from the National Forests. Prior to these court decisions, gross annual Forest Service timber sale receipts were projected to range between \$400 million and \$600 million.

The Forest Service and the Congressional Budget Office have furnished estimates of the net cost of H.R. 15069. These estimates are predicated on the assumption that, absent legislative relief, the federal courts will shortly require the Forest Service to apply the *Monongahela* decision nationwide, *but only to prospective timber sales*, and that such application will reduce the annual timber harvest by 1981 to 50 percent of projected levels. In the view of this Committee, there is no basis for the assumption that the court decisions will restrict only prospective sales. The Forest Service has been forced by the *Monongahela* decision to reduce the timber harvest in the Fourth Circuit by 90 percent. And a federal district court in Alaska has applied that decision to halt portions of an on-going 50-year sale. Six additional federal cases are pending. It is apparent to the Committee that, absent legislative relief, the *Monongahela* decision will shortly be applied by the federal courts to *all* Forest Service timber sales.

Therefore, the Committee believes that the loss of federal revenues which will be averted by enactment of H.R. 15069 has been significantly understated by both CBO and the Forest Service. The Forest Service has informally advised that, if the *Monongahela* decision is applied to on-going sales nationwide, the result would be to reduce federal timber receipts immediately by 75 percent. Over the longer term, the reduction would average 50 percent. If it is assumed that federal timber sales would otherwise yield \$500 million annually (average between

\$400 million and \$600 million), nationwide application of the *Monongahela* decision would immediately reduce annual timber receipts to one-fourth of their present level or \$125 million. Thereafter, they would rise to approximately \$250 million per year. The Committee is of the view, therefore, that enactment of section 12 of H.R. 15069 will result in restoring to the federal treasury otherwise lost timber revenues of between \$250 million and \$375 million each year over the next five years. The sales of salvage timber which will be made possible by this bill will return additional revenues of approximately \$10 million according to the estimates of both the Forest Service and CBO. The Committee concurs in these estimates. Therefore, under this analysis, enactment of the legislation will produce an annual increase in federal revenues of between \$260 million and \$385 million.

Predicated on the assumption that the *Monongahela* decision will ultimately be applied nationwide, the Forest Service has estimated the annual loss of revenue to be averted by enactment of section 12 of H.R. 15069 at between \$200 million and \$300 million. When combined with the additional \$10 million per year generated by the salvage sale provision, the total additional revenue realized would be \$210 million to \$310 million annually. This is somewhat below the Committee's estimate but falls in the same general range. In the Committee's view, the CBO estimate, which ranges from \$20 million in 1977 to \$180 million in 1981, falls far short of the mark.

Therefore, even assuming the accuracy of the Forest Service estimates of revenue loss averted (which range between those of CBO and the Committee) but assuming also that the *Monongahela* decision is shortly applied to restrict *all* Forest Service timber sales (as the Committee fully expects it will be), enactment of H.R. 15069 should produce additional annual federal revenues of at least \$210 million to \$310 million.

On the other side of the ledger, the Forest Service has estimated the average annual cost of the legislation at \$184 million. This figure includes increased reporting and planning costs which CBO believes, and the Committee agrees, can be accommodated within presently authorized appropriation levels. Therefore, the Committee believes that the Forest Service estimate of \$184 million would accommodate any possible increase in the cost of reforestation as estimated by the Forest Service.

The Committee wishes to emphasize that the principal cost factor in H.R. 15069, section 3 of the bill which deals with reforestation, will substantially increase in the long run the direct returns to the Federal Government from lands within the National Forest System. However, because timber rotations are relatively long, these benefits will not be realized for a number of years. The Committee also wishes to emphasize that there are numerous multiple use benefits of this legislation that will protect the Nation's water supplies and increase the indirect returns to the American people including protection for wildlife and fish habitat, enhancement of opportunities for outdoor recreation, and increased opportunities for sound range management. It is extremely difficult to quantify these values, but the Committee believes that it is obvious that these indirect returns, when coupled with increased timber harvest receipts, far outweigh the costs of the bill.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4), Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 15069, as amended, will have no inflationary impact on the national economy.

On the contrary, the Committee believes that enactment of H.R. 15069, as amended, is vital to reducing inflationary pressures in the economy by assuring that the lands in the National Forest System continue to play a significant role in meeting the needs of the American people for timber, wood fiber, and wood products as well as assuring that the lands within the National Forest System are managed so as to provide for sound protection of watershed values, recreation use, wildlife and fish habitat, and range values.

The Committee is convinced that direct returns to the Government and to the economy through continued harvest of timber from National Forest lands will more than offset the costs inherent in the bill. Further, the institution of sound management practices as required by the legislation will have beneficial effects on the other uses of National Forest lands. This is particularly true of section 3 of H.R. 15069 which sets forth a program by which the backlog of lands within the National Forest System in need of reforestation will receive treatment within eight years and thereafter be properly maintained. As a result, lands will be returned to production, recreation use will be enhanced, watershed and range values will be increased, and wildlife and fish habitat will be protected.

The Committee feels that enactment of H.R. 15069 will produce both direct and indirect returns to the Federal Government and to the American people which will have a salutary effect on the national economy.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The estimates and comparisons prepared by the Director of the Congressional Budget Office under clauses 2(1)(3)(B) and 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and sections 308(a) and 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are set forth below.

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICER,
Washington, D.C., September 7, 1976.

HON. THOMAS S. FOLEY,
*Chairman, Committee on Agriculture, U.S. House of Representatives,
Longworth House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost reestimate for H.R. 15069, the National Forest Management Act of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin, *Director.*

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE (REVISED)

SEPTEMBER 7, 1976.

1. Bill Number: H.R. 15069

2. Bill Title: National Forest Management Act of 1976

3. Bill Purpose: The proposed legislation amends the Forest and Rangeland Renewable Resources Planning Act of 1974, and other forest legislation in order to improve the management of the forest resources of the National Forest System. The bill requires the Department of Agriculture to submit reports on the additional fiber potential in the National Forest System and on reforestation requirements of the National Forest System. The bill also requires revisions of land and resources management plans for the National Forests. Limitations on timber sales contained in the 1897 Act are removed, and the National Forest Reservation Commission is abolished. Changes are made in the timber receipts payment formula to states, and a salvage fund is established to be used for construction of needed roads and Forest Service sale preparation.

4. Cost Estimate:

(In millions of dollars)

	Fiscal year—				
	1977	1978	1979	1980	1981
(a) Reforestation:					
Authorization level.....		200.0	200.0	200.0	200.0
Costs.....		170.0	200.0	200.0	200.0
(b) Changes in timber receipts payment formula to States:					
Costs.....	19.9	62.7	52.0	47.5	43.0
(c) Salvage fund:					
Receipts.....	13.7	22.5	22.5	22.5	26.4
Costs ¹	8.0	13.1	13.1	13.1	15.4
Net revenue.....	5.7	9.4	9.4	9.4	11.0
(d) Removal of timber sale limitations:					
Potential revenue loss averted...	20.0	60.0	100.0	140.0	180.0

¹ Costs are for administration and timber receipts payments to States.

Note: All costs in this bill are associated with function 300.

5. Basis for Estimate:

The authorization levels for reforestation are those specified in the bill. Annual costs are based on the historical payout rate of the U.S. Forest Service for forest protection and utilization. This rate is 85 percent for the first year that funds are available and 15 percent for the second year.

Section 2 of the Forest and Rangeland Renewable Resources Planning Act of 1974 authorizes an amount "not to exceed \$20 million in any fiscal year to carry out the purposes of this section."¹ Since only \$6 million of the total authorization has so far been appropriated, it is assumed that the present authorization would be sufficient to cover the costs of preparing the report on fiber potential which would be required under Section 2.

¹ See Public Law 93-378, section 2.

In addition, it is assumed that the annual authorization for the U.S. Forest Service will be sufficient to cover the requirements for the Renewable Resource Program, National Forest System Resource Planning, Transportation System, and for the acquisition of National Forest System Lands.

Section 13 of this legislation changes the timber receipts payment formula to states. Under the existing formula, states receive 25 percent of Federal timber receipts, after costs of road construction and reforestation have been deducted. Under the new formula, states would receive 25 percent of total Federal timber receipts, with no deductions for the above-mentioned costs. Payments are made to the states in the fiscal year after the timber receipts are collected. The resulting additional payments to the states were estimated based on Department of Agriculture projections of timber receipts and road construction and reforestation costs.

The establishment of a salvage fund consisting of deposits made by purchasers of insect-infested, dead, damaged, or down timber will result in receipts to the Treasury. Sums in the fund in excess of those required to cover the cost of constructing needed roads and the cost of Forest Service sale preparation and harvesting are to be transferred to miscellaneous receipts in the Treasury. The annual net revenue from this fund was estimated based on Department of Agriculture projections of revenues and expenses associated with the program.

Recent court decisions have limited the type of trees that can be harvested, based on strict interpretation of the Act of 1897, which allows sale of only dead, physiologically mature, or large trees. These limitations could reduce revenue from future timber sales. Projected revenue from timber receipts is \$400 million annually. Potential revenue loss is estimated at 5 percent of annual timber receipts in FY 1977 with increases of 10 percent each year through FY 1981. Enactment of this legislation would remove the sale limitations and, thus, prevent the projected revenue loss.

Abolition of the National Forest Reservation Commission will not result in any cost saving, since research and report preparation performed by the Forest Service's employees for the Commission will continue.

6. Estimate Comparison: None.

7. Previous CBO Estimate: The costs of the change in the timber receipts payment formula to states is the same as those furnished in the cost estimate of S. 3091, National Forest Management Act of 1976.

8. Estimate Prepared By: Arleen Fain Gilliam (225-9676).

9. Estimate Approved By: James L. Blum.

JAMES L. BLUM,
Assistant Director for Budget Analysis.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 15069.

No specific oversight activities, other than the hearings accompanying the Committee's consideration of H.R. 15069 and related legislation, were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman) :

FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

AN ACT To provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the productivity and other values of certain of the Nation's lands and resources, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest and Rangeland Renewable Resources Planning Act of 1974".

SEC. 2. RENEWABLE RESOURCE ASSESSMENT.—(a) In recognition of the vital importance of America's renewable resources of the forest, range, and other associated lands to the Nation's social and economic well-being, and of the necessity for a long term perspective in planning and undertaking related national renewable resource programs administered by the Forest Service, the Secretary of Agriculture shall prepare a Renewable Resource Assessment (hereinafter called the "Assessment"). The Assessment shall be prepared not later than December 31, 1975, and shall be updated during 1979 and each tenth year thereafter, and shall include but not be limited to—

(1) an analysis of present and anticipated uses, demand for, and supply of the renewable resources, with consideration of the international resource situation, and an emphasis of pertinent supply and demand and price relationship trends;

(2) an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government;

(3) a description of Forest Service programs and responsibilities in research, cooperative programs and management of the National Forest System, their interrelationships, and the relationship of these programs and responsibilities to public and private activities; and

(4) a discussion of important policy considerations, laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands.

(b) To assure the availability of adequate data and scientific information needed for development of the Assessment, section 9 of the McSweeney-McNary Act of May 22, 1928 (45 Stat. 702, as amended, 16 U.S.C. 581h), is hereby amended to read as follows:

"The Secretary of Agriculture is hereby authorized and directed to make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for the renewable resources of the forest and range lands of the United States, its territories and possessions, and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits and uses in meeting the needs of the people of the United States. The Secretary shall carry out the survey and analysis under such plans as he may determine to be fair and equitable, and cooperate with appropriate officials of each State, territory, or possession of the United States, and either through them or directly with private or other agencies. There is authorized to be appropriated not to exceed \$20,000,000 in any fiscal year to carry out the purposes of this section.

(c) (1) *The Secretary shall report in the 1979 and subsequent Assessments on the additional fiber potential in the National Forest System. The report shall include, but not be restricted to, forest mortality, growth salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations.*

(2) *In developing the report, the Secretary shall provide opportunity for public input, and shall consult with other interested governmental departments and agencies.*

(d) (1) *It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to Congress annually at the time of submission of the President's budget together with the annual report provided for under section 7(c) of this Act, beginning with submission of the President's budget for fiscal year 1978, the amount and location by forests and States and by productivity class where practicable of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All National Forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.*

(2) Notwithstanding the provisions of section 8 of this Act, the Secretary shall annually for eight years following the enactment of this subsection, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year plus a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary's estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President's budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 7(c) of this Act at the time of submission of the President's budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System \$200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended and shall not be subject to rescission.

(e) The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides in the National Forests, including the beneficial or adverse effects of such uses.

SEC. 3. RENEWABLE RESOURCE PROGRAM.—In order to provide for periodic review of programs for management and administration of the National Forest System, for research, for cooperative State and private Forest Service programs, and for conduct of other Forest Service activities in relation to the findings of the Assessment, the Secretary of Agriculture, utilizing information available to the Forest Service and other agencies within the Department of Agriculture, including data prepared pursuant to section 302 of the Rural Development Act of 1972, shall prepare and transmit to the President a recommended Renewable Resource Program (hereinafter called the "Program"). The Program transmitted to the President may include alternatives, and shall provide in appropriate detail for protection, management, and development of the National Forest System, including forest development roads and trails; for cooperative Forest Service programs; and for research. The Program shall be developed in accordance with principles set forth in the Multiple-Use Sustained-

Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531), and the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321-4347). The Program shall be prepared not later than December 31, 1975, to cover the four-year period beginning October 1, 1976, and at least each of the four fiscal decades next following such period, and shall be updated no later than during the first half of the fiscal year ending September 30, 1980, and the first half of each fifth fiscal year thereafter to cover at least each of the four fiscal decades beginning next after such updating. The Program shall include, but not be limited to—

(1) an inventory of specific needs and opportunities for both public and private program investments. The inventory shall differentiate between activities which are of a capital nature and those which are of an operational nature;

(2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;

(3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits; [and]

(4) a detailed study of personnel requirements as needed to [satisfy] *implement and monitor* existing and ongoing programs[.]; and

(5) *program recommendations which—*

(A) *evaluate objectives for the major Forest Service programs in order that multiple use and sustained yield relationships among and within the renewable resources can be determined;*

(B) *recognize the fundamental need to protect and where appropriate improve the quality of soil, water, and air resources;*

(C) *state national goals that recognize the interrelationships between and interdependence within the renewable resources; and*

(D) *evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices.*

SEC. 4. NATIONAL FOREST SYSTEM RESOURCE INVENTORIES.—As a part of the Assessment, the Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

SEC. 5. NATIONAL FOREST SYSTEM RESOURCE PLANNING.—(a) As a part of the Program provided for by section 3 of this Act, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(b) In the development and maintenance of land management plans for use on units of the National Forest System, the Secretary shall use

a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences.

(c) *The Secretary shall begin to incorporate the standards contained in this section into plans for units of the National Forest System as soon as practicable after enactment of this amendment and shall complete such incorporation for all such units by no later than September 30, 1985. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this Act, the management of such unit may continue under existing land and resource management plans.*

(d) *Upon preparation, such plans shall be available for public scrutiny at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and thereafter hold public meetings or comparable processes of public involvement for consideration of such plans in locations that foster public participation in the review of such plans.*

(e) *In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—*

(1) *Provide for multiple uses and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960, and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness;*

(2) *determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (e) (1), the definition of the terms "multiple use" and "sustained yield" as provided in the Multiple-Use Standard-Yield Act of 1960, and the availability of lands and their suitability for resource management.*

(f) *Plans developed in accordance with this section shall—*

(1) *Form one integrated plan for each unit of the National Forest System, incorporating in one document all of the features required by this section and any other applicable provisions of law;*

(2) *Be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;*

(3) *Be prepared by a multidisciplinary team. Each team shall prepare its plan based on actual knowledge of the forest and upon inventories of all the resources of the forest;*

(4) *Permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, tree improvement and the like if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960 and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;*

(5) *Permit the application of silvicultural systems only if—*
 (i) *such systems are determined to be appropriate to accomplish the multiple use sustained yield resource management objectives of subsection (e) (1),*

(ii) *such systems are carried out in a manner consistent with the adequate protection of soil, watershed, continuously flowing waterways and bodies of water, fish, wildlife, recreation, and esthetic resources, and with the regeneration of the timber resources,*

(iii) *there is assurance that tree regeneration can occur either by natural or artificial means within a reasonable period after harvest, but in no event longer than five years,*

(iv) *the size of areas to be clearcut is kept to the minimum needed to accomplish silvicultural and multiple use sustained yield resource management objectives of subsection (e) (1),*

(v) *the areas to be clearcut are shaped and blended with the natural terrain to the extent practicable especially where there are esthetic considerations, and*

(vi) *such system is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber;*

(6) *Be amended after final adoption only in accordance with the provisions of subsections (e) and (f) and after being open to public scrutiny and public involvement comparable to that required by subsection (d); and*

(7) *Be revised (i) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (ii) in accordance with the provisions of subsections (e) and (f) and the public scrutiny and public involvement provisions of subsection (d).*

(g) *Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.*

(h) *The length and the other terms of any contract for the sale of timber shall be designed to promote orderly harvesting consistent with the principles set out in this section. Unless there is a finding by the Secretary that better utilization of the various forest resources, consistent with the provision of the Multiple-Use Sustained-Yield Act of 1960, will result from a contract of longer duration, no contract for the sale of timber shall extend for a period of more than ten years: Provided, That such ten-year period may be adjusted at the discretion of the Secretary to provide additional time because of circumstances beyond the control of the purchaser. The contract shall require the purchaser to file, as soon as practicable after the execution of a contract for any advertised sale with a term of two years or more, a plan of*

operation, which shall be made a part of the contract, subject to concurrence by the Secretary, and which shall be subject to amendment to meet changing conditions. The Secretary shall not extend any contract period with an original duration of two years or more unless he finds that the purchaser has diligently performed, or made every reasonable effort to perform, in accordance with the plan of operation concurred in by the Secretary and that extension would be in the public interest.

(i) Within the multiple use objectives of a land management plan adopted pursuant to this section, the Secretary shall, insofar as practicable, take steps to preserve the diversity of tree species similar to that which is existing at the time of harvest in the region controlled by the unit plan.

(j) The Secretary shall establish—

(1) Standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): *Provided*, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: *Provided further*, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack;

(2) Exceptions to these standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including but not limited to recreation, wildlife, habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section; and

(3) Utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That such deposits shall not be considered as moneys received from the national forests within the

meaning of sections 500 and 501 of title 16, United States Code: And provided further, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

(k) The Secretary shall make a report to Congress, together with the 1979 updating of the Assessment as required by section 2 of this Act, on the milling and other wood fiber product fabrication facilities and their location in the United States. The report shall note the public and private forested areas that supply such facilities. The report shall assess the degree of utilization into product form of harvested trees by such facilities and shall set forth the technology appropriate to the facilities to improve utilization either individually or in aggregate units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

(l) The Secretary shall—

(1) Formulate and implement, as soon as practicable, a process for estimating long-term costs and benefits to support the program evaluation requirements of this Act. This process shall include requirements to provide information on all estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

(2) Include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 7(c) of this Act, including an identification of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process.

SEC. 6. COOPERATION IN RESOURCE PLANNING.—The Secretary of Agriculture may utilize the Assessment, resource surveys, and Program prepared pursuant to this Act to assist States and other organizations in proposing the planning for the protection, use, and management of renewable resources on non-Federal land.

SEC. 7. NATIONAL PARTICIPATION.—(a) On the date Congress first convenes in 1976 and thereafter following each updating of the Assessment and the Program, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, when Congress convenes, the Assessment as set forth in section 2 of this Act and the Program as set forth in section 3 of this Act, together with a detailed Statement of Policy intended to be used in framing budget requests by that Administration for Forest Service activities for the five- or ten-year program period beginning during the term of such Congress for such further action deemed appropriate by the Congress. Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Pro-

gram, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period. Notwithstanding any other provision of this Act, Congress may revise or modify the Statement of Policy transmitted by the President, and the revised or modified Statement of Policy shall be used in framing budget requests. **[1]**

: Provided, That, commencing in fiscal year 1981, notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out renewable resource programs of the Forest Service after September 30, 1980, except as specifically authorized by law enacted after the date of this provision, and except as otherwise provided in section 2(d)(3) of this Act.

(b) Commencing with the fiscal budget for the year ending September 30, 1977, requests presented by the President to the Congress governing Forest Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so presented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser programs or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344.

(c) For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary of Agriculture shall prepare an annual report which evaluates the component elements of the Program required to be prepared by section 3 of this Act which shall be furnished to the Congress at the time of submission of the annual fiscal budget commencing with the third fiscal year after the enactment of this Act. *With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management.*

(d) These annual evaluation reports shall set forth progress in implementing the Program required to be prepared by section 3 of this Act, together with accomplishments of the Program as they relate to the objectives of the Assessment. Objectives should be set forth in qualitative and quantitative terms and accomplishments should be reported accordingly. The report shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. Program benefits shall include, but not be limited to, environmental quality factors such as esthetics, public access, wildlife habitat, recreational and wilderness use, and economic factors such as the excess

of cost savings over the value of foregone benefits and the rate of return on renewable resources.

(e) The reports shall indicate plans for implementing corrective action and recommendations for new legislation where warranted.

(f) The reports shall be structured for Congress in concise summary form with necessary detailed data in appendices.

SEC. 8. NATIONAL FOREST SYSTEM PROGRAM ELEMENTS.—The Secretary of Agriculture shall take such actions as will assure that the development and administration of the renewable resources of the National Forest System are in full accord with the concepts for multiple use and sustained yield of products and services as set forth in the Multiple-Use Sustained-Yield Act of 1960. To further these concepts, the Congress hereby sets the year 2000 as the target year when the renewable resources of the National Forest System shall be in an operating posture whereby all backlogs of needed treatment for their restoration shall be reduced to a current basis and the major portion of planned intensive multiple-use sustained-yield management procedures shall be installed and operating on an environmentally-sound basis. The annual budget shall contain requests for funds for an orderly program to eliminate such backlogs: *Provided*, That when the Secretary finds that (1) the backlog of areas that will benefit by such treatment has been eliminated, (2) the cost of treating the remainder of such area exceeds the economic and environmental benefits to be secured from their treatment, or (3) the total supplies of the renewable resources of the United States are adequate to meet the future needs of the American people, the budget request for these elements of restoration may be adjusted accordingly.

SEC. 9. TRANSPORTATION SYSTEM.—(a) The Congress declares that the installation of a proper system of transportation to service the National Forest System, as is provided for in Public Law 88-657, the Act of October 13, 1964 (16 U.S.C. 532-538), shall be carried forward in time to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits, except that the financing of forest development roads as authorized by clause (2) of section 4 of the Act of October 13, 1964, shall be deemed "budget authority" and "budget outlays" as those terms are defined in section 3(a) of the Congressional Budget and Impoundment Control Act of 1974 and shall be effective for any fiscal year only in the manner required for new spending authority as specified by section 401(a) of that Act.

(b) *Unless the necessity for permanent roads is set forth in the forest development road system plan, roads constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as part of the forest development road system.*

SEC. 10. (a) NATIONAL FOREST SYSTEM DEFINED.—Congress declares that the National Forest System consists of units of federally owned forest, range, and related lands throughout the United States and its territories, united into a nationally significant system dedicated to the long-term benefit for present and future generations, and that it is the purpose of this section to include all such areas into one integral system. The "National Forest System" shall include all national forest lands reserved or withdrawn from the public domain of the United States, all national forest lands acquired through purchase, exchange, donation or other means, the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010-1012), and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system. *Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any Act supplementary to and amendatory thereof, shall be returned to the public domain except by an Act of Congress.*

(b) The on-the-ground field offices, field supervisory offices, and regional offices of the Forest Service shall be so situated as to provide the optimum level of convenient, useful services to the public, giving priority to the maintenance and location of facilities in rural areas and towns near the national forest and Forest Service program locations in accordance with the standards in section 901(b) of the Act of November 30, 1970 (84 Stat. 1383), as amended.

SEC. 11. RENEWABLE RESOURCES.—In carrying out this Act, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term "renewable resources" shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on the date of this Act.

SEC. 12. ACQUISITION OF NATIONAL FOREST SYSTEM LANDS.—(a) *The National Forest Reservation Commission, established by the Act of March 1, 1911 (36 Stat. 961, as amended; 16 U.S.C. 513-516, 518), is abolished and all functions of the Commission are transferred to the Secretary of Agriculture.*

(b) *For the purposes of providing information that will aid Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary is hereby authorized and directed to make an annual report of all land purchases and exchanges relating to the National Forest System, and report the findings to Congress as part of the report prepared in compliance with section 7 (c) of this Act. The report shall include an evaluation of the purchase price criteria and guidelines utilized by the Secretary for the purpose of forest land acquisition.*

SEC. 13. REGULATIONS.—The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

SEC. 14. SEVERABILITY.—If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity

of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

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ACT OF JUNE 4, 1897, AS AMENDED

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[For the purpose of preserving the living and growing timber and promoting the younger growth on forest reservations, the Secretary of Agriculture, under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found upon such forest reservations as may be compatible with the utilization of the forests thereon, and may sell the same for not less than the appraised value in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated, respectively, but not for export therefrom. Before such sale shall take place notice thereof shall be given by the Commissioner of the General Land Office, for not less than thirty days, by publication in one or more newspapers of general circulation, as he may deem necessary, in the State or Territory where such reservation exists: *Provided, however,* That in cases of unusual emergency the Secretary of Agriculture may, in the exercise of his discretion, permit the purchase of timber and cord wood in advance of advertisement of sale at rates of value approved by him and subject to payment of the full amount of the highest bid resulting from the usual advertisement of sale: *Provided further,* That he may, in his discretion, sell without advertisement, in quantities to suit applicants, at a fair appraisal, timber and cord wood not exceeding \$2,000 in appraised value: *And provided further,* That in cases in which advertisement is had and no satisfactory bid is received, or in cases in which the bidder fails to complete the purchase, the timber may be sold, without further advertisement, at private sale, in the discretion of the Secretary of Agriculture, at not less than the appraised valuation, in quantities to suit purchasers: payments for such timber to be made to the receiver of the local land office of the district wherein said timber may be sold, under such rules and regulations as the Secretary of Agriculture may prescribe; and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office, in a separate account, and shall be covered into the Treasury. Such timber, before being sold, shall be marked and designated, and shall be cut and removed under the supervision of some person appointed for that purpose by the Secretary of Agriculture, not interested in the purchase or removal of such timber nor in the employment of the purchaser thereof. Such supervisor shall make report in writing to the Commissioner of the General Land Office and to the receiver in the land office in which such reservation shall be located of his doings in the premises.]

For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215, 16 U.S.C. 528-531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, 16 U.S.C. 581h, 1601-1610), the Secretary of Agriculture under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products

located on National Forest System lands. The Secretary shall advertise all sales, unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than \$10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement. The Secretary shall take such action as he may deem appropriate to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands, including but not limited to:

(1) Establishing adequate monitoring systems to promptly identify patterns of noncompetitive bidding;

(2) Requiring sealed bidding to be predominately utilized for advertised sales of one million board feet or less; and

(3) Requiring that a report of instances of such collusive practices or patterns of noncompetitive bidding be submitted to the Department of Justice with any and all supporting data.

Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary, and such persons shall have no personal interest in the purchase or harvest of such products nor be directly or indirectly in the employment of the purchaser thereof.

The Secretary, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or forest products for research and demonstration projects.

Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended, 16 U.S.C. 476), prior to the date of enactment of this amendment shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sale procedures in effect at the time of the sale.

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ACT OF MAY 23, 1908, AS AMENDED

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That hereafter twenty-five per centum of all money received from each forest reserve during any fiscal year, including the year ending June thirtieth, nineteen hundred and eight, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated: *Provided*, That when any forest reserve is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this Act shall be based upon the stumpage value of the timber. *In the administration of the foregoing provisions of this paragraph, the term "moneys received" against which the percentage authorized by such provisions is applied for determining the amount payable to any State for public schools and public roads shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any pur-*

chaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sale contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget review estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

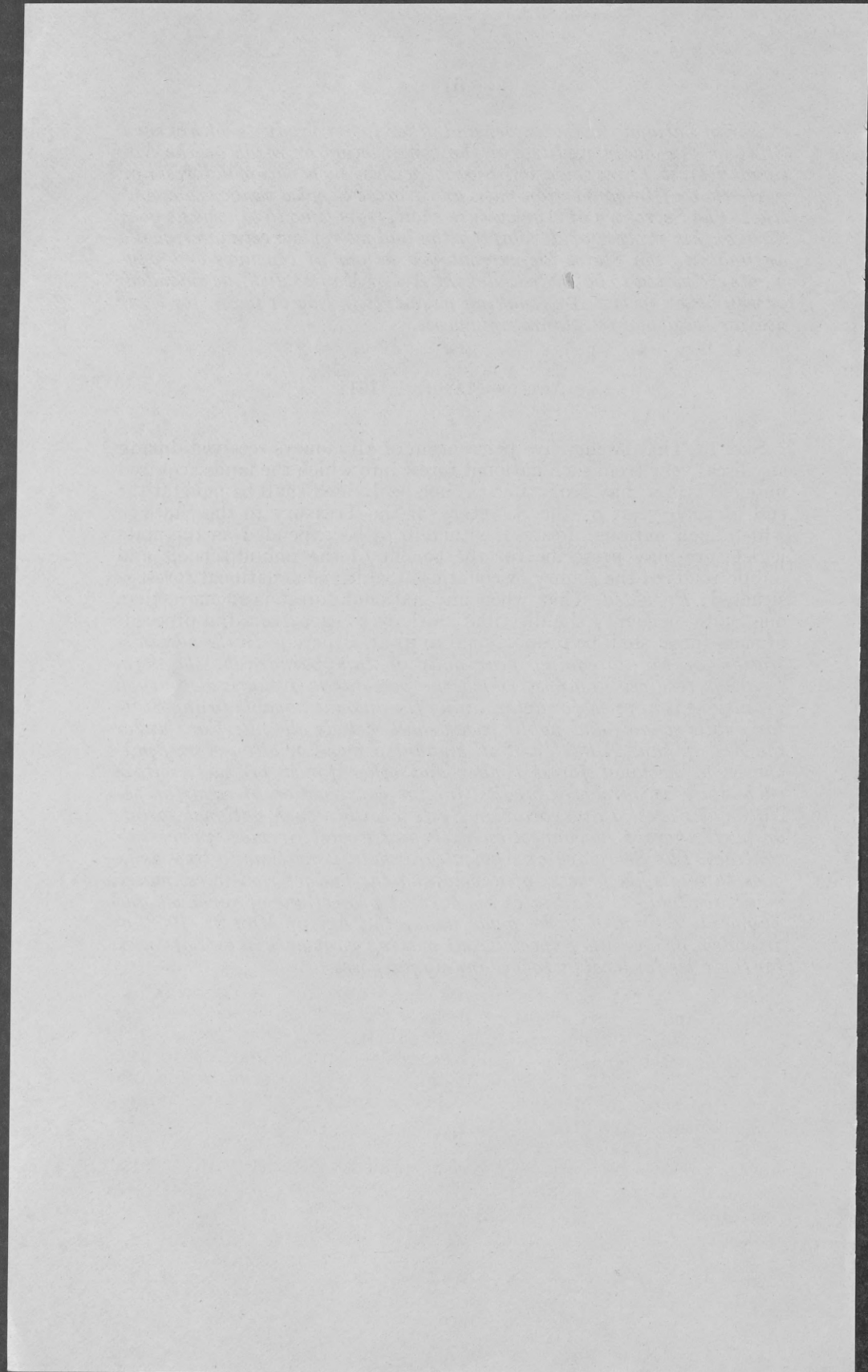
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ACT OF MARCH 1, 1911

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SEC. 13. That twenty-five per centum of all moneys received during any fiscal year from each national forest into which the lands acquired under this Act may from time to time be divided shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated, to be expended as the state legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. *In the administration of the foregoing provisions of this paragraph, the term "moneys received" against which the percentage authorized by such provisions is applied for determining the amount payable to any State for public schools and public roads shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sale contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget review estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.*

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DISSENTING VIEWS OF GEORGE E. BROWN, JR. OF CALIFORNIA

Congress today is faced with the responsibility for shaping new law for the management of our National Forests. There are 155 National Forests encompassing 187 million acres of Federal land in 44 states, Puerto Rico, and the Virgin Islands. These forests are a public legacy created by past Congresses in response to a deep and abiding public interest. The history of the creation of these forests points out a very important effort to inhibit harvesting practices which were leading to the ruin of the magnificent forests of the North East, the South, the Lake States—and gradually the West.

One hundred years ago, the American Forestry Association and the American Association for the Advancement of Science joined together to seek to establish a national system of "Scientific Forestry" to replace the harvesting policies which were degrading the ecological balance of our forests. The log and burn practices that virtually wiped out the forests of New England, the Southeast, the North-Central Lake states were commencing in the huge Western softwood forests.

A 16 year effort culminated in the creation of the first "Forest Reserves" and another 6 years put the Organic Act of 1897 on the books. That Act was only the beginning in what has been a continuing fight to conserve our national forests for the many uses demanded of them. 16 U.S.C. 475, a part of the 1897 Act which has never been amended, declared the purpose of the establishment of the National Forests to "improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States".

Thus the basic concepts of sustained yield and the multiple use of our national forests were put into law at that time.

In following years, various movements, particularly in the East, pushed for new laws to protect the watersheds of our forests (The Weeks Law of 1911) because private logging on private lands had demonstrated a proven capability to wreck a watershed and the forests on it. The Weeks Law authorized the acquisition of cutover and denuded land for this protective purpose. It was this authority which led to the establishment of the Monongahela National Forest in 1920 to regulate "the flow of navigable streams"—thus, a watershed forest.

But the acquisition of lands did not stop the continuation of abusive harvesting practices in many parts of the country. The need for lumber in the housing boom after World War II escalated the rate of harvesting in the National Forests to such a degree that the resulting public concern produced the Multiple Use-Sustained Yield Act of 1960, with the strong help of our distinguished Senator from Minnesota, Mr. Humphrey.

The thread which is woven through this 100 year history is a thread of forest conservation. The American people depend on the National Forests for many uses and as their demands have grown with increases in population, the management of these forests has become very complex. Because of this complexity, Congress understandably feels the need to keep guidelines as flexible as possible so that the Forest Service can use its expertise and technical skills to produce the greatest public good. But in doing so, Congress has never moved away from, in fact, has continually strengthened and clarified, its policy of multiple use and sustained yield—non-declining flow of our public forests.

H.R. 15069, in its present form, marks the cutting of that thread. It, simply put, is a license to the timber industry to cut over our national forests at any rate they so choose. By failing to include, in fact, by rejecting, provisions requiring sustained yield, protection of marginal lands, clearcut guidelines, and fish and wildlife protection, the Committee demonstrated an approval of the destructive practices which led to the recent court decisions in West Virginia, Alaska, and Texas. These numerous provisions which the Committee rejected were not unduly limiting—even Chief McGuire of the Forest Service stated that the Service would be able to continue practicing good forestry with ample flexibility if these provisions were included. So, my only conclusion is that the pressures of logging interests have led to a decision that timber production should be the foremost use of our national forests, with the other uses—recreation, range, wildlife, watershed protection, and wilderness coming perhaps far behind.

Unless some action is taken on the House Floor that will once again establish the policies of multiple use and sustained yield in final legislation, Congress will have radically changed the purposes to which our national forests have been dedicated, and destroyed the fruits of a hundred year struggle. It is tragically ironic that in our bicentennial year, which should mark the strengthening of measures for protection of the public interests, that such a large and perhaps irreversible, backward step has been taken.

I submit that our national forests can help to supply increasing timber needs while giving the people a source of outdoor enjoyment, the birds and animals a refuge, and the streams—protection. This bill does not do so.

I would like to summarize the many reasons for the need for particular additions to this bill in the form of provisions on sustained yield, marginal lands protection, clearcut guidelines, and fish and wildlife protection. All of these are provisions that do not conflict with the supplying of timber from our national forests, but which need to be a part of national forest law so that other forest values are maintained in harmony with timber harvests.

SUSTAINED YIELD—NONDECLINING FLOW

I mentioned earlier in my comments that H.R. 15069 does not include any statement of policy or guidelines regarding the support of the sustained yield principle in timber harvest programs. This was not an oversight, but a deliberate rejection of an amendment to insert the provision of the Senate bill, S. 3091, regarding this extremely im-

portant subject. This motion could have very serious consequences for the future of our national forests.

Sustained yield means, basically, the harvesting of an amount of timber equal to the volume of annual growth so that a perpetual balance between growth and output of timber is assured. Under a sustained yield policy, a given forest land area which is presently producing 100 million board feet of timber a year will be producing the same amount of timber one hundred years from now, and on in perpetuity—never declining from one decade to the next.

This concept is not a new one by any means. The basic principle, of conservation is a sustained yield principle and it was spelled out in law almost a century ago in the legislation which established our forests. The policy of sustained yield forest management was broadened and defined in subsequent legislation. The Sustained Yield Forest Management Act of 1944 set forth the goal of providing a continuous and ample supply of forest products. The Agriculture Act of 1956 set forth as a goal that the "building up and maintaining of a level of timber growing stocks adequate to meet the Nation's domestic needs for a dependable future supply of industrial wood is essential to the public welfare and security". The often cited, even stronger language of the Multiple Use—Sustained Yield Act of 1960 authorized the Secretary of Agriculture "to develop and administer the renewable surface resources of the national forest for the multiple use and sustained yield of the several products and services obtained therein" and defines "sustained yield of the several products and services" to mean "the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment to the land". Finally, the Forest and Rangeland Renewable Resources Planning Act, or Humphrey-Rarick Act, which authorized the Secretary of Agriculture to take any action to "assure that the development and administration of the renewable resources of the National Forest System are in full accord with the concepts for multiple use and sustained yield of products and services as set forth in the Multiple Use-Sustained Yield Act of 1960" underscores the evolving and quite proper concern of our legislators with the need to maintain national forest management programs which assured continuing supplies of forest products. These acts were also a result of the ever-increasing awareness and appreciation for the other values of our national forest lands—outdoor recreation, wilderness, the protection of wildlife and watersheds, and were an underscoring of the evolving refusal of our legislators to allow rates of timber harvest by the timber industry which would eventually exhaust national forest timber reserves.

These Acts were not passed in a vacuum. Evidence was accumulating which pointed to the possible future liquidation of much of our public timberlands, since private forestlands were being exhausted by accelerating "cut out and get out" policies of the timber companies. The industry was quite naturally focusing on the standing timber in the national forests as a source of supply, as their private stocks diminished. Our legislators very properly determined that while the national forests should be a source of supply of the trees that industry needed, the ruinous harvesting attitudes of segments of the timber industry had no place in the national forests.

I would also point out that integral to Congressional concern and legislative approach was the realization that legislation must not only address the issue of volumes and rates of harvest but the actual harvest practices as well, if the resource based was going to continue to produce the yields of wood fibre and other values which our people demand. The Multiple Use Act of 1960 and the Rangeland Renewable Resources Planning Act of 1974 recognized the need for and tried to ensure the protection of the productivity of the land from impairment by abusive harvesting methods. This emphasis on the need for specific protection for the land, and the water resource base, which is the basic support of the rich variety of forest plants and animals, was a very important concern of Congress, a concern with Congress realized must be continually reemphasized and refined in subsequent legislation if the multiple forest values are to be provided to meet the public demands.

Though a sustained yield policy has been reiterated in the various forest laws down through the years, the language has been of a general nature. The principle defect in the legislation, which has only become apparent in recent years as the industry's demand for harvestable trees has intensified, has been that the legislation did not provide sustained yield policy protection to individual national forests. Under existing law, the industry could easily claim, and be entirely correct in such a claim, that all or most of the timber in one national forest, or in a National Forests Region of the country could be harvested as long as an equal growth of timber could be accounted for in another forest or region. This became the case in certain national forests of the Northwest and eventually led to massive social and economic problems as various forest regions went through a boom-and-bust cycle. Mills would spring up to cope with the supplies from rapid harvesting in one area only to be shut down and the workers laid off as the harvesters, having cut the timber in that area, moved on to another forest, where another mill would then be built. And, the resulting unemployment problems would be perpetuated in the area until a new forest was regenerated, a growth process that could be seriously retarded by the nutrient depletion of the soils, and the erosion resulting from thoughtless, expansive clearing of the forests in their entirety. And there would be no opportunity for this unemployment to be alleviated in the interim by alternative forest employment opportunities, such as recreation, because wildlife had disappeared, vistas were brutally scarred and denuded, and streams clogged with eroded silts and logging debris.

I believe that a sustained yield, non-declining flow policy of harvesting should be applied to each national forest. This would assure a supply of timber in every local mill on a continuing basis while providing forested areas in each national forest for the other important uses of recreation, wildlife, and watershed protection. The amendment which was offered in the Committee, and which is in the Senate bill, S. 3091, would have accomplished this needed improvement in the law. If it had been accepted the forest of the West, the East, and the South would have been protected from the tragic problems which have created so much public outcry in recent years, while the people of the nation would have been assured not only a continuous supply of timber

from the national forests, but a continuous supply of the other important uses of these forests.

I am trying to clarify the obvious need for this Congress to continue in the path that past Congresses have travelled—a path which has moved in the direction of clarifying the importance of a sustained yield of timber for the public needs, while protecting the productivity of the forestland. To reject such a policy at this time is not just a serious error in judgment. At this moment in the history of our national forests with perhaps many years ahead of us before another opportunity for shaping fundamental forestry law presents itself to Congress, Congress must either move forward or we will have moved back.

I do not intend to deprecate the motives of the Committee members in deciding to reject a sustained yield policy when it was presented to them. The arguments of the forest products industry seemed reasonable at first, or even second, glance. The timber industry quite simply wants to cut trees, especially what is known as the "old-growth" timber—that which, as defined by the Forest Service, is at least 100 years old—at whatever rate the industry desires.

The argument which was submitted by the industry is that our national forests abound with old trees which are rotting. The industry says these trees will be lost for timber product uses unless they are promptly cut since they will soon die and fall down. The industry points out that to allow this to happen will create fire hazards as dry bracken accumulates on the forest floor. In addition, the industry claims that harmful insect populations could increase in these old-growth forests as the trees lose their natural protective vigor. For these reasons, rapid cutting of these old-growth trees is demanded by the industry. The industry assures us that such an accelerated cutting would provide us with wood where we would otherwise have waste, and that such acceleration could not take place under the sustained yield policy outlined in the amendment that was presented to the Committee.

The real reason for the industry's attack on a policy of sustained yield for each national forest is that such a policy would stop them from cutting the old-growth as fast as they desire. Though their reasons for a more rapid cutting of the old-growth seem to be appealing, a rate of old-growth harvesting sufficient to avoid all these problems of waste that the industry warns us against will not be prevented by inclusion of this sustained yield language. As the Chief of the Forest Service, Mr. McGuire, pointed out to the Committee during consideration of the sustained yield amendment—the old-growth of our forests could be cut at a rate necessary to avoid waste from rotting or insect damage under the policy enunciated in the sustained yield provision being offered, if the Forest Service had the funds to build the roads necessary to get to the old-growth. Thus the problem is not with any restrictions being brought about by a sustained yield policy, but simply that proper roads have not been constructed to reach certain areas of our national forests where the oldest growth still remains.

Funds are needed to head off these problems, not a rejection of a sustained yield policy—a policy which is vitally needed to protect our people on a local scale from boom-and-bust cycles (as evidenced by the

endorsement of sustained yield by the International Woodworkers of America), to protect the multiple uses of our forests, and to assure a continuous supply of timber in perpetuity. There are dead and dying trees in every forest. These dead and dying trees are not on the whole forest, nor all in one place. A good system of roads rendering the various parts of the forest equally accessible to both the forest manager and the timber harvester will permit harvest of those trees that are dead or dying, and thus avoid their waste.

I would point out that even if we reject the sustained yield language again we will still have those dead or dying trees in every national forest that the industry is crying about because we do not have, as the Forest Service pointed out, a proper system of roads to rescue this timber for product uses before it decays. Indeed with a sustained yield policy in law we may finally encourage sufficient interest in this problem of adequate roads to secure support for passage of the legislation needed to give us access to these potentially lost wood fibre stocks.

In refutation of the industry claim that a quick scalping of the old-growth will result in a quickly regenerating new forest with even greater volumes of wood than contained in the old-growth forest, I would draw your attention to a Forest Service Study published in 1976 on the growth and mortality of the Douglas fir forests in Douglas County, Oregon. This study points out, with carefully formulated statistics, that on timber industry lands where the old-growth has been cut and "young, healthy trees" are now growing (which is exactly the harvest growth process that the industry is prescribing for our national forests) the volumes of growing timber rank at the bottom in a comparison between industry and national forest lands. The National Forests, even with all their decaying old-growth which the industry tells us is soon to become waste, rank first in gross measurements of growth. Such evidence makes the case for speeded up cutting on national forest lands due to alleged "stand decadence" highly questionable, if not totally disregardable.

The Committee has also neglected to provide meaningful guidance to the Forest Service in formulating programs to encourage greater utilization of felled trees. In pushing for more cutting freedom, the timber industry chose not to point out to us that utilization of the parts of felled trees now being discarded in their harvesting and milling activities would go a long way towards meeting their wood fibre needs. It is true that some wood fibre in the form of limbs, leaves and tree tops should be left on certain sites to build up nutrient levels in the soil or to support wildlife needs as it decays. But the amount of currently wasted wood fibre is considerably in excess of these needs. Over all it is estimated that about 24 billion cubic feet of trees are cut in the nation on an annual basis, of which 10 billion is wasted. Of this 10 billion, it is estimated that there is a potential to use 6 billion cubic feet. In western Washington and Oregon alone, the average chippable residue left on sites is 3,127 cubic feet per acre on national forest land.

There are processing techniques to turn much of this currently wasted wood fibre volumes into wood products. I feel that the Committee should have given the Forest Service the legislation to encourage much greater efficiencies of fibre utilization than it did. Such legis-

lation would have meant new jobs in the machine tool industries and the forest product fabrication industries.

If the Congress does not move to protect our national forests at this point in time through the passage of legislation containing a good sustained yield policy provision it will be difficult to resist the pressure for excessively rapid liquidation of many of our forested lands. The Forest Service perhaps is already being pushed into such excesses. If current policies governing current rates of harvest continue unchanged, softwood sawtimber supply is projected to decrease from the 1970 level of 24.9 billion board feet to 20.8 billion board feet by 2000 or 83% of the 1970 supply. While it is true that our national forests contain 50% of the nation's resources of softwood sawtimber (pine trees of a size large enough to be milled into lumber), Forest Service harvest policies already seem to be approaching a rate of harvest under which sustained yield of such timber could not be provided in coming years from these national forests.

In California, the percentage of the states timber production provided by the national forests has jumped from 10 percent in 1952 to about 45 percent in 1970. A sustained yield, even flow policy would hold the national forests' production at 50 percent of total harvest, thereby supplying timber needs while ensuring future forests for other multiple uses. For we must not forget the important needs of watershed and wildlife protection in each national forest as we involve ourselves in worries over wood fibre demand.

Therefore, I felt that the Committee's rejection of the sustained yield amendment was a serious error which must be rectified on the House Floor. This is not a casual issue to be put off to the distant future.

MARGINAL LANDS

I have just pointed out that softwood sawtimber supplies are projected to decrease over the next 25 years based on current management practices. This decrease could be turned around to an increase in supply if sound intensive forest management practices are applied including increased efforts in reforestation, thinning, avoidance of destructive, eroding timber harvesting, and, very importantly, turning our limited forest management budget, and our attention, to a national forest policy that promotes the growing of trees in forest areas that have the best conditions present for tree growth.

There are certain lands in our national forests which have far greater timber production potential, due to soil, slope, and climate conditions, than others. Our greatest efforts should be focused on the production of timber on these lands, rather than spreading the capacities of our forest professionals and our limited funds in forest management harvesting programs on low quantity tree growth sites, or the so-called "marginal lands" of the forest. The logic behind such a policy seems as obvious to me as it did to Senator Talmadge, the distinguished Chairman of the Senate Committee on Agriculture, when he stated upon consideration of marginal lands amendments to the Senate Committee bill—"only an idiot forester would plant trees on land he knows will not grow trees adequately".

It is logical for one investing money to place it where it will have the best return, especially as we face rising demands for timber. It is not

the task of Congress in setting overall forest policy to try to write strong prescriptions for management, but it is the duty of Congress to ensure that the forest managers have the tools and the guidelines to exercise sensible choices so that the taxpayers money is invested wisely.

The Senate, in S. 3091, addressed this issue in a reasonable way by directing the Secretary of Agriculture to identify the relative productivity of the land for timber production, and where direct timber production costs exceed economic return, timber production should not be a management goal. The Senate report also directed that the Secretary refrain from taking precipitous action on lands which seem to have a low productivity level. No arbitrary level was set, no prescriptions put forth. Simply a policy to guide the Forest Service in promoting intensive forest management on the more productive lands. This policy does not mean that these marginal lands would no longer have an economic value in the region.

The uses of recreation, wilderness, wildlife and range could then be heavily promoted on these marginal lands to meet the rising demand by hikers, campers, cattle grazers, and wilderness supporters for additional forestland acreage. All of these people bring money into an area. As Dr. Marion Clawson (a forest economist and regent professor at the University of California at Berkeley) stated in the February, 1976 issue of "Science":

The data (on the economics of national forest management) strongly suggest that the national forests are functionally inefficient also. In particular, expenditures for timber management are being made in regions, on forests, and on sites where timber values are so low that the area should be abandoned for timber growing purposes. Other outputs of these forests may be worth managing, * * * but the growing of more timber is not economically sound."

Faced with limited funds and a vast need for more intensive forest management on the most productive forest sites, such a policy seems completely reasonable and very necessary. But the House Committee on Agriculture rejected various marginal land amendments, time and time again, including one identical to the Senate language. The Committee did insert a provision for a crash program of reforestation at a cost of \$200,000,000 per year by 1978—a program which requires that if tree planting fails once, it be tried again, and again. To include all lands, even those which have been shown to have very low productivity potential, in such a program seems a tragic waste of the taxpayer's dollar, and a boon for those areas of the country, especially the Rocky Mountain states, which have the highest amounts of acreage in marginal lands.

This subject must be addressed on the House Floor if the Forest Service is to begin a proper intensive forest management program which would increase future timber supply while protecting the lands and its many uses from impairment by poor harvesting practices.

CLEARCUTS—FISH AND WILDLIFE PROTECTION

Much of the evidence and concern which led to the court decision in West Virginia to stop clearcutting in the Monongahela National For-

est, and similar decisions in Alaska and Texas, was based on the many problems resulting from the overuse of this harvesting technique which results in a cutting of all of the trees, old and young, high and low quality, on a given site at one time. Serious problems with soil erosion, watershed destruction, river and stream pollution, nutrient depletion in the soil, and the destruction of fish and wildlife habitats have occurred in many areas, and especially where excessively large and poorly planned clearcuts have been applied in national forests.

Though it is not up to the Congress to decide the best way of correcting such problems by specific prescriptions, ample evidence is before us to at least ask the Secretary to establish standards for maximum size of clearcut areas which would alleviate the gravest of abuses. Such standards could be exceeded for reasonable cause, such as for insect or fire damage needs. Clearcut standards should also prescribe the establishment of buffer strips (strips of forested land) around each clearcut and along watercourses, and the maintenance of adequate habitats in harvest areas for those species of wildlife which would otherwise suffer population depletion or possible extinction.

The problems with soil erosion due to water run-off and damaged slope conditions which occur in large, block-style, clearcuts were repeated in testimony before the Committee many times. There should be some sort of maximum size limit to clearcuts so that the industry is not free to shave entire mountain sides at will, and these cuts should be shaped to fit in with the natural slope and terrain as much as possible.

Regarding buffer strips, evidence supplied by many foresters, and fish and wildlife experts, has demonstrated the need for buffer strips around each clearcut, of a width chosen by the Forest Service, thereby ensuring that all adjacent clearcuts are separated by some trees. Such buffers would supply the needs of the wildlife of the area for food, habitats, and covering while helping to cut down on the soil erosion and watershed destruction which can occur when clearcuts are too large or are planned so that each successive clearcut touches on the one before, ending in an enormous harvested area. In addition, such buffer strips around clearcuts eliminate some of the ugliness associated with vast acreages of cleared or stumpland.

Dan Speake, leader of the Alabama Cooperative Wildlife Research Unit, has pointed out the wildlife problems which occur when very large clearcuts are used as a harvesting technique with no buffer strips surrounding them:

One of the most serious wildlife problems that can develop with forest management can be excessively large clearcuts that result in the loss of edge effect and the poor distribution of habitat elements. Shape of clearcuts is just as important. Long narrow units are very acceptable and could be large but less linear units of large size are undesirable.

Another serious problem can be that too much area will be put into short rotations (growing and harvesting a succession of young trees—never allowing any trees to become old-growth). When short rotation, even-aged pine forestry is carried out with regeneration occurring on large (one or two square mile) blocks, much of the wildlife is apt to be eliminated or greatly reduced in number. . . . It is not uncommon to

see square or rectangular clearcuts of several hundred acres being created in adjoining blocks in successive years. When this happens, hardwoods of mast producing size are virtually eliminated over large tracts. Under current plans for short rotation of pine stands, it is difficult to see how mast and fruit will be provided for many species that require these foods.

Likewise, buffer strips along watercourses are necessary to maintain a stable water temperature necessary for fish production and life. When clearcuts occur along water banks the temperature of the water rises sharply as the cooling foliage cover is removed. Cold-water fish, such as trout or salmon, have suffered depletion of stocks and spawning problems in the Northwest, including Alaska, due to such harvesting techniques. In addition, clearcuts along banks creates serious problems of water pollution through debris and nutrient run-off.

The Alaskan director of the National Marine Fisheries Service recently outlined the gravity of this problem succinctly:

Perhaps the most critical environmental concern facing the fisheries resources inhabiting the streams, lakes, and estuaries of southeastern Alaska is the continued impact of timber harvesting and its associated activities. Virtually all logging operations in the Tongass National Forest directly or indirectly have an impact on the freshwater and estuarine environments. These impacts can result from removal of vegetation adjacent to the waterways . . . Streamside vegetation, a major component of fisheries habitat, keeps the extremely important stream-forest interface intact, thus minimizing the direct impact of logging on the stream and the indirect effects on the estuary. Removal of this streamside vegetation can have the most immediate impacts and disturbances on both the spawning and rearing habitats through:

- (1) Loss of overhead and streambank cover.
- (2) Changes in temperature regime.
- (3) Change in energy base of stream.
- (4) Changes in trophic composition.
- (5) Increased debris in stream.
- (6) Increased sedimentation levels.
- (7) Loss of streambed and streambank stability.

I would point out to my colleagues that without meaningful guidelines, the Forest Service will be sorely hamstrung in preventing these abuses from continuing. The only language in H.R. 15069 dealing with this problem is that—plans developed shall permit the application of silvicultural systems only if “such systems are carried out in a manner consistent with the adequate protection of soil, watershed, continuously flowing waterways, and bodies of water, fish, wildlife, recreation, and esthetic resources, and with the regeneration of the timber resources”. Such vague wording will have little effect against the strong pressures of industry demand for wood fibre. California’s state foresters have already confronted the problems of enforcing stream protection legislation which forbids “unreasonable” gouging or cutting of stream banks and which directs the California Division of Forestry to keep streams “substantially” free of slash or debris. The loose wording has led to many confrontations and conflicts between foresters, and the timber industry. H.R. 15069 will lead to the same problems.

Finally, the Committee bill included no language to ensure the maintenance of sufficient habitats for wildlife which are found in the old-growth forests. Forested dens and snags are two of such types of habitats needed by certain wildlife species for the continuation of their life-cycle. As large clearcuts remove acres of old-growth, certain animals and birds are left homeless and are forced to find new locations. But if we remove all our old-growth, without a policy of keeping enough of these specific habitats in each area for respective wildlife, their populations will decline, if not disappear altogether. The wolverine and spotted owl are already suffering such threatening declines in population levels due to loss of sufficient habitats, and we must move quickly to protect any further total destruction of such habitats.

An amendment will be offered on the House Floor to cover these important areas of sustained yield, marginal lands, clearcut standards, and fish and wildlife protection. The Committee seemed bent on ignoring the ample evidence which demands action at this time, and reported a bill that promotes a policy of timber production above any of the other multiple uses of the national forests. It is not surprising that mail is flooding the offices in support of H.R. 15069 from forest products industries, and other associated groups. They have a bill which supports the rapid liquidation of our forest land. To argue otherwise seems impossible since a policy of sustained yield, non-declining flow was rejected 26-9 in the Committee. The timber industry had fought this provision and succeeded in that body of Members. Hopefully, the Full House will be more cognizant of the other multiple uses of our national forests so that they are protected with a good, reasonable amendment.

I could address many other points which are missing in the Committee bill, issues which will have to be addressed sooner or later if sound forest management is to become a national policy. Two of the more important are the issues of development, maintenance, and harvesting of wood on private, nonindustrial forestlands, and the need for improved road construction in our national forests.

Currently, there are 300 million acres of forestland owned by private, nonindustrial people. Of this 300 million acres, 100 million are covered in mature sawtimber ready to be cut. With the increasing demand for wood fibre, and the increasing demand for the multiple uses of our national forests, it seems that we should be doing our best to provide incentives and information on markets, prices, etc., which would promote the careful production and harvesting of these private wooded acres. The Committee felt that such a subject should not be addressed in H.R. 15069, and since there are so many other areas of extreme concern I will put the matter aside for this Congress. But, hopefully, it will be addressed in an acceptable fashion at some later date.

The problem with excessively loose laws on logging road construction which lead either to the building of highways where properly-constructed dirt roads would be adequate or the construction of poor roads that cause the greatest erosion problems of all was also neglected at this time. Once again, in view of the aforementioned areas of necessary attention, I will set this issue aside until the Congress has more time to adequately consider the many complex factors involved.

And last, but most important of all in its own way, is the issue of uneven-aged management in our eastern mixed hardwood forests. The clearcutting of these hardwoods, which are such a source of beauty to our recreationists due to the diversity of tree species and variety of ages and sizes, was the cause of the public outcry leading to the "Monongahela decision" in West Virginia that banned clearcutting in that national forest. Many wildlife and forest experts feel that clearcutting destroys the variety of tree species, replacing them with one or two types, and also destroys the supplies of nuts and mast which are food for much of the hardwood's wildlife. In many national forests, hardwood areas have been converted to pine, which, though good for sawtimber, cannot offer many of the benefits of hardwoods. As a consequence of legislative neglect, this controversy will continue in our eastern states for the people in these states will not easily permit these hardwoods to be managed under a block-by-block, even-aged policy of softwood monocultures. Diversity, in itself, is something to protect.

I am seriously concerned about the moves made in the Committee to ignore and therefore hamper the progress towards developing and improving the multiple uses of our national forests. When one speaks of ecology and the environment, one is simply trying to point out that the many complex parts of our world are so interwoven, so dependent on each other, that to put one use above all others is to support the possible destruction of all. If we continue to allow forest harvesting as we have done to date, without proper curbs or enforceable standards, nothing will prevent great damage being done to our forest soil and water resource base which is so vital to the continuing generation of trees for our nation's future wood fibre needs.

I suggest that H.R. 15069, if passed as it now reads, will not promote the multiple uses of our national forests nor protect these forests for the generations to come.

GEORGE E. BROWN, JR.

ADDITIONAL VIEWS OF JIM WEAVER, REPRESENTATIVE FROM THE STATE OF OREGON, ON H.R. 15069

When the courts have ruled that the 1897 Forest Service Organic Act prohibits the silvicultural practice known as clearcutting, the Congress had to act to change that old law. I am pleased that the Committee on Agriculture took action to resolve what has come to be known as the "Monongahela Mess." We need action from the full House of Representatives to avoid the closure of our great western National Forests.

The dissenting views of my distinguished colleague, Mr. Brown of California, point out the weaknesses of this bill. We intend to offer an amendment to place the National Forests on an even flow non-declining sustained yield basis.

Even flow non-declining sustained yield is the current policy of the Forest Service, but this policy is not in statute. Forest products corporations want to harvest more timber from the National Forests and, therefore, oppose the current even flow policy. By not including sustained yield in the statute, we will be allowing the Forest Service to overcut the National Forests. The National Forests will be overcut without the sustained yield amendment, because the pressures to overcut are great.

Powers, Oregon is a community which knows first hand what it is to see the effects of overcutting. A large corporation bought out the local owners and began cutting at top speed.

After ten years, the firm closed their mill and threw everyone in town out of work. Economic and social chaos resulted. I have a responsibility to protect the Pacific Northwest, the world's last stand of "old growth" timber, from a boom and bust economy. A sustained yield of timber from the National Forests will insure a steady economy.

Keith Johnson, International President of the International Woodworkers of America (AFL-CIO), wrote the members of the Committee on Agriculture, "Forest products corporations in the west have overcut their private lands and are now trying to fill the projected shortfall with an increase in the harvest rate in National Forests. We must not compound the error made by the forest corporations on their private lands by neglecting the principle of sustained yield in National Forests."

By including the sustained yield amendment, the conference committee has a better chance of concluding before the end of the session. Without the sustained yield amendment, chances for a successful conference are lessened.

JIM WEAVER.

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NATIONAL FOREST MANAGEMENT ACT OF 1976

SEPTEMBER 9, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 15069]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 15069) to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes, having considered the same, report thereon without amendment and without recommendation.

BACKGROUND

Several bills growing out of the so-called *Monongahela* decision¹ that are of concern to the Committee on Interior and Insular Affairs (including H.R. 15069, the subject of this report) were referred to the Committee on Agriculture. A related bill (H.R. 11508) resulting from a similar court decision in Alaska² was referred to the Committee on Interior and Insular Affairs.

Both decisions involve ongoing practices and activities of the U.S. Forest Service (in one case, in the Monongahela National Forest in West Virginia, and in the other, the Tongass National Forest in Alaska). On the basis of these decisions, the courts, among other things, interpreted the 1897 National Forest Organic Act³ to prohibit "clear cutting." A major purpose of the bills referred to is to reverse this judicial prohibition.

Although primary referral of the bills apparently was on the basis of whether the specific case arose from a unit of the national forest system created out of acquired lands (as was the Monongahela) or from public domain (the Tongass situation) two factors clearly are

¹ *West Virginia Div. of the Izaak Walton League, Inc. v. Butz*, 367 F. Supp. 422.

² *Zieske v. Butz*, 406 F. Supp. 258. This case as well as the *Izaak Walton League* case and a third, more recent, decision in *Texas Committee on Natural Resources v. Butz*, Civil Action No. TY-76-268-CA of the U.S. District Court for the Eastern District of Texas, are discussed in Part I of this report filed September 8, 1976, by the Committee on Agriculture.

³ 16 U.S.C. 476.

involved: (1) Such a historical distinction has nothing to do with methods of harvesting timber, and (2) whatever solution the Congress provides should enunciate and implement one policy throughout the national forest system, although, of course, specific practices for particular species of timber will vary.

The rigid division of committee jurisdiction based upon where trees are located, in the opinion of this Committee, will not permit a rational decision here. Both the Committee on Agriculture and the Committee on Interior and Insular Affairs should have a role in development of the legislation.

All of the bills involved have a significant impact upon the operation, management, and future activities within the entire national forest system, a major portion of which has been created from the public domain, which forests are assigned to this Committee under House Rule X, Clause 1(j). As one example of this in H.R. 15069, section 9 of the bill (as reported by the Committee on Agriculture) requires that "... no land now or hereafter reserved or withdrawn from the public domain as national forests ... shall be returned to the public domain except by an Act of Congress." Clearly, as we read the Rules of the House, not only forests created from the public domain but also withdrawal of public lands are under the jurisdiction of the Committee on Interior and Insular Affairs; and whether or not this Committee agrees with the language contained in section 9, this Committee ought to be the one proposing such language.

The Chairman of the Committee on Interior and Insular Affairs, therefore, on August 27 requested the Speaker to refer H.R. 15069 to this Committee at such time as it was reported by the Committee on Agriculture. The Agriculture Committee reported the bill September 8, and on that date, at approximately 7 p.m., it was referred to the Committee on Interior and Insular Affairs "for consideration of matters within its jurisdiction under rule X, clause 1(j), for a period ending not later than 7 p.m., September 9, 1976."

COMMITTEE CONSIDERATION AND RECOMMENDATIONS

In recognition of the time constraints under which the bill (H.R. 15069) must be processed if it is to be considered by the House during the 94th Congress, the Committee on Interior and Insular Affairs took cognizance of the referral of that legislation at its meeting on September 9, 1976. It was generally, though not unanimously, agreed that the Committee could not, within the time granted it, be reasonably expected to make any lasting or constructive contributions to the legislation developed and recommended by the Committee on Agriculture. Obviously, the usual process of providing consideration by the appropriate subcommittee or subcommittees, of permitting the public to present its views and recommendations, and of deliberating on the merits of the substantive issues involved could not be accomplished within the brief period granted in the sequential referral.

Had time permitted, undoubtedly the Members of the Committee would have given the provisions of the legislation within the jurisdiction of this Committee careful attention, and would have forwarded recommendations on such issues to the House for its final disposition.

In light of the circumstances, and mindful of the competing demands placed upon the leadership in the final weeks of a Congress, the Committee appreciates the recognition by the Speaker of its jurisdictional interest in the legislation. In making this referral, the Committee believes that the Speaker acted in a responsible and reasonable manner to avoid complications and delays that might otherwise have hampered consideration of the bill by the House this year. At the same time, this Committee understands that this sequential referral is intended to preserve its jurisdiction over "Forest reserves . . . created from the public domain" and will protect the rights of the Committee with respect to future legislation of this character, including a jurisdictional right over future amendments to H.R. 15069 or any similar legislation which may be enacted by the Congress.

In furtherance of its responsibilities in regard to this legislation, the Members of the Committee on Interior and Insular Affairs firmly believe that this Committee should be entitled to reasonable representation on any committee of conference appointed to resolve the differences between the Senate and House versions of the bill. The Committee acknowledges the contributions of the Committee on Agriculture with respect to this legislation and is not suggesting that the conferees selected to represent this Committee should replace any conferees recommended by that Committee. On the contrary, it is assumed that the Speaker would name additional conferees to represent the interests of the Committee on Interior and Insular Affairs.

CONCLUSION

In light of the discussion above, the Committee on Interior and Insular Affairs, by a voice vote, agreed to submit this report without making a recommendation on the merits of the bill H.R. 15069.



